

**CLARK COUNTY PLANNING COMMISSION  
MINUTES OF PUBLIC HEARING  
THURSDAY, JUNE 15, 2006**

BOCC Hearing Room  
Public Services Building  
1300 Franklin Street, 6<sup>th</sup> Floor  
Vancouver, WA

6:30 p.m.

**CALL TO ORDER**

The public hearing of the Clark County Planning Commission was called to order at 6:30 p.m. by Chair, Jeff Wriston. The hearing was held at the BOCC Hearing Room, 1300 Franklin Street, 6<sup>th</sup> Floor, Vancouver, Washington.

**ROLL CALL**

Planning Commission Present: Dick Deleissegues, Vice Chair; Milada Allen, George Vartanian, and Jeff Wriston, Chair.

Planning Commission Absent: Lonnie Moss, Ron Barca, and Jada Rupley.

Staff Present: Marty Snell, Long Range Manager; Colete Anderson, Planner III; Jeff Nlten, Planner; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

**GENERAL & NEW BUSINESS**

**A. Approval of Agenda for June 15, 2006**

The agenda for June 15<sup>th</sup> was approved as distributed.

**B. Approval of Minutes for May 18, 2006**

It was **MOVED** by Dick Deleissegues and **Seconded** by Milada Allen to **APPROVE** the Minutes for May 18, 2006. **MOTION WAS APPROVED** by unanimous voice vote of all members present.

**C. Communications from the Public**

None.

WRISTON: Tonight is a continuation of our annual reviews. Unfortunately I was not here at the last hearing to basically in the beginning of those reviews. I understand we got through I think three of them and it was a rather long evening, so we are, and that's again and we apologize for starting a little late, we generally don't do that, if ever do that, but we have been deciding how we were going to handle tonight's agenda. What we don't want to do is have people that sit in the audience for another five or six hours and we don't even get to them, and on the other side, the flip side, is we really only have one other hearing date where we can fit into our schedules to get through what is a fairly large and complicated agenda item. So we have come up with a couple of decisions.

The first one being that the two items that have to do with mixed use which is basically CPZ2006-00015 which is NE 71st Street and the same 00014, Springbrook, we are going to continue those to a date and time certain. The date will be June 29th at 6:30, the place will be City Hall, that's Vancouver City Hall. We hope tonight that we can get through the rest of the agenda items and therefore we will make it through -- we'll make it through all these items. I apologize for any inconvenience. It's very hard for us to figure out and look in our crystal balls here and figure out how long these are going to take. Along those lines we are going to ask for cooperation from you and ask for testimony to be brief. We're going to give some general guidelines for time limits and if you're pushing up against them, we'll gently remind you you're pushing up against them.

We are going to give more -- a little more consideration to the resource, we have one more resource matter to hear, the resource matters are a little more complicated, a little more contentious and we're going to give a little more consideration to the resource matters of which we've got one, but I would ask Randy if you could do your best to try to keep those as brief as possible, but we're going to ask the applicants to be somewhere in the neighborhood of about 10 to 15 minutes in their presentations and any other testimony to be no more than 5 minutes. To me that's fairly conservative, but that's generally testimony tends to be less than these guidelines but, and I'm trying to be very conservative on it because again we didn't impose that at the last hearing, but the last hearing we did only get through three matters and it's not going to be fair to -- well, it may not seem fair on the outset that, well, you didn't do that at the beginning of, you know, the first hearing. If we don't get through these matters, if these are continued much further and it pushes back our schedule or you get pushed back, well, that won't be fair to you so we're trying to be fair to everyone.

## **PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**

1. **CPZ2006-00011 Coleman/Crocket** The property owners are seeking to change the Comprehensive Plan and zoning designation for parcel 227684-000 (18 acres) from Resource Lands Agriculture with AG-20 zoning to Rural 5 and R-5 zoning, located at 25211 NE 50th Avenue.  
**Contact: Darci Rudzinski (360) 397-2375, Ext. 4434**  
or e-mail: [annual.review@clark.wa.gov](mailto:annual.review@clark.wa.gov)

WRISTON: So with that in mind let's go forward with the first matter which is the Coleman/Crocket matter I believe, and staff, and I will say that staff has told me that they will take five minutes or less which would be very refreshing from staff so, not to be, don't (inaudible) but very good, so thank you, staff.

RUDZINSKI: Chair Wriston, thank you very much, Planning Commissioners, good evening, I'm Darci Rudzinski with the Clark County Long-Range Planning Department. I will try to be brief. I serve at your pleasure of course. If you have additional questions, please let me know or if you'd like me to go over additional information, I can do that as well. We have tried as staff to group these annual review requests by type of requests and as such you heard resource related requests at your last hearing in May, this is a continuance of sorts, this is the last case you have before you regarding resource related uses.

This request is for a plan amendment and zone change for 18 acres of resource lands with AG zoning to be rezoned to Rural-5 and R-5 zoning. The location is at 25211 NE 50th Avenue. There's a single-family residence in existence and some associated outbuildings on the site. Generally land to the north and south of the subject property is parcelized consistent with the R-5 zoning that's requested and is at least partially developed with rural residences, but despite the relatively small parcels along NE 50th Avenue there appears to be still some active farm use in the immediate area. Larger agricultural land holdings lie further to the west of NE 50th Avenue and immediately east of the site. We have received letters in association with all of the resource lands annual reviews that you've been hearing. Letters came from Futurewise, from Cathy Steiger and from Val Alexander, Coyote Ridge Ranch in La Center, Washington. Associated specifically with this case we did receive one letter via E-mail and that was from Mark Hundley.

The main policy issues revolving around all of the resource lands and this annual review is basically a request for conversion of agricultural land to rural residential revolves around policies that direct preservation of resource lands for agricultural use. Existing adopted County policy clearly supports the preservation of agricultural land. Comprehensive plans, goals and policies support the maintenance of agricultural lands in resource production and discourage land use activities that conflict with these activities, farm activities. The plan amendment procedures in the Clark County Unified Development Code require that requests to amend the comprehensive plan land use

map must meet all the criteria in Section G, criteria for all map changes, and in addition because this request is to change from a natural resource designation it must also meet additional criteria for rural map changes.

As some of you will recall from your last hearing County counsel Rich Carson did make some testimony directing the Planning Commission and I'd like to just summarize that quickly. The counsel basically said that the Planning Commission does not have the authority to balance the benefits of having a subject site --

WRISTON: Excuse me, slow you down just a little bit.

RUDZINSKI: And I promised too.

WRISTON: I didn't mean to get everyone panicked.

RUDZINSKI: We promised with that five minutes.

WRISTON: I know, I didn't want to get everyone panicked but --

DELEISSEGUES: I think it's Rich Lowry, not Rich Carson.

RUDZINSKI: I'm sorry, yeah, you're absolutely right, I got my Rich's mixed up -- having a subject site designated for resource, the Planning Commission isn't being asked to balance the benefits of having a subject site designated for resource land versus additional rural residential land, but under the Growth Management Act if it qualifies as resource land under the "primarily devoted to" and has long commercial -- I mean has long-term commercial significance criteria, then it has to be designated resource land. So the initial decision is whether or not this land continues to qualify as resource land.

So the statutory definition is "primarily devoted to" which the Courts have construed to mean either it is in resource use or it's capable of being in resource use and secondarily that it has long-term commercial significance. So the latter issue is harder to determine. Basically what counsel has said is that the guidelines that the Community Trade and Economic Development Department have issued don't deal strictly with agriculture as an economic issue but rather in terms of factors that play into whether or not it's commercially viable and there are a number of factors that we presented as part of the guidelines that were used to originally designate agricultural land and again we can talk about those more if you'd like.

Mr. Lowry concluded that this Commission would have to find that either there's been a change in circumstances since '94 that makes the land in question no longer suitable for resource land or that there was an original mistake in '94 and this land should not have been originally designated for resource use.

With that, staff's recommendation based on the findings presented in the staff report is that the Planning Commission forward a recommendation of denial to the Board of

County Commissioners for this request from redesignation from resource lands agricultural to Rural-5. The application does not meet GMA goals that encourage development in urban areas, reducing sprawl or maintaining and enhancing natural resource based industries. Furthermore, approving the application would also be inconsistent with community framework plan and comprehensive plan policies that direct the County to preserve agricultural and to provide resource land parcels with special protection. The criteria for plan map amendment have also not been met. The additional criteria for rural map changes have only partially been met as the applicants have not adequately demonstrated that the subject parcel does not meet criteria for existing resource plan designation.

WRISTON: Great. Thank you. Any questions?

DELEISSEGUES: Not at this time.

WRISTON: Okay. Hear from the applicant, Randy.

PRINTZ: Randy Printz, 805 Broadway. A couple of very preliminary items, I will try to be as brief as possible; however, please understand that you've got a property owner and an applicant here who has probably got 5 to \$10,000 in an application, \$30,000 worth of consulting fees to get to this point, you've got application requirements that require addressing every comp plan policy, every community framework plan policy, all of the WACs, all of the RCWs that relate to this, and it is literally impossible -- I mean that's a mountain of work and took months of work to put together and it is impossible to do that in 10 or 15 minutes. We will do our absolute best to get through this as quickly as possible.

With that, I am glad to hear staff actually mention the criteria, and Rich and I had talked about that last time when Rich was here, and I'm glad that he put that on the record because that was -- is going to shorten my stuff some, but the overriding issue here, and if you look at the staff report the first thing that that staff says is that you don't meet the goals of GMA. Well, first of all, you can never meet the goals of GMA on any project, they aren't something collectively that can be met. They are balanced economic development versus protection of critical areas. And the Courts have said, I grabbed just a quick quote, while the GMA goals collectively convey some conceptual guidance for growth management, the GMA explicitly denies any order of priority among the 13 goals and it is evident that some of them are mutually competitive. So we've chosen some in our narrative, in all the materials that you have, and we believe that we -- that this furthers and staff has picked some that doesn't, you can't either meet them collectively or not.

The staff report also spends a lot of time on the comp plan goals, most of which relate to the urban area, the antisprawl provisions and a variety of other things. The problem is it said, number one, the Growth Management Hearings Boards have and the Courts have consistently upheld five-acre zoning as being zoning that is appropriate in a rural area, not ones and two and a halves but definitely five acres, which is what this is, and

does not violate any of GMA's antisprawl provisions. The place that you look at if you're going to look at the County's comp plan in terms of the rural, in terms of whether or not ag is appropriate in this case or not is the rural element of the comp plan and your comp plan has 11 elements in it and the rural element is one of them and that's where all of the policies and goals for the County's comp plan for rural is, and all of those say, and we agree with all of them, and I think we actually agree with staff on this, which is if you are a resource land, if you're agriculture, if you're forest, if you're mining, if you are any of those things, then there are very, very strong comp plan policies that are based on GMA that say you should preserve those and that those should not be converted except under rare circumstances to, to different and non-resource lands use, we agree with all of that.

But that begs the question, which is why we're here tonight, is whether or not this property is agricultural property in the first place. And we are going to be able to demonstrate tonight through my testimony and particularly through Mr. Prenguber's testimony who is sitting next to me who's an ag economist that under in very, very clear rules for what is and is not ag which Rich Lowry and I agree on, which the Supreme Court, the Growth Management Hearings Board and the GMA staff itself are all very consistent on, that we simply do not need it. There's not a single -- at least I can't find a single reference to any of the actual applicable language and rules that apply to this in the staff report. Again, this is all -- this assumes that this is ag property, the staff report assumes that it's ag and that you can't convert it, I agree, but again, you first have to determine whether or not this is ag or not.

The Growth Management Act, the Growth Management Hearings Board and the Supreme Court make it very clear what findings that you guys have to make in order to determine that something is ag and I'm going to pull some language out of actually the statute as well as a fairly recent Supreme Court decision which says in order for the land to qualify as agricultural land within the meaning of GMA two prerequisites must first be met: First the land must be primarily devoted to the commercial production of agricultural products, primarily devoted to the commercial production of agricultural products; second, the land must have long-term commercial significance. Both of these must be met before the land can be designated as agricultural lands.

Before we get to what those actually mean, actually nobody here any longer, Ron I think was around and obviously Vaughn was in '94 when all of the stuff that you've been dealing with through these ag policies or ag requests were originally designated and if you recall or you may -- you have some -- may have some institutional recollection of the County created a farm focus group and that farm focus group was put together before the '94 comp plan was adopted to try and decide whether or not any property in the county would qualify under the new, the new GMA definitions and if so which ones, and that that committee actually split and half the committee actually believed that there was no property left in Clark County that had that, met the GMA test, and the other half did. The Board in '94 ultimately decided that there was property out there that could meet it and what they did was they took a very, very broad brush, much like they did with the agri-forest designations, which were

ultimately struck down, they took a very broad brush based primarily upon parcel size, soil type and whether or not it was in current use tax status, which anybody who's actually actively farming is in, I mean you're nuts not to be in that tax status, and based upon those very general things they painted a lot of the county brown out in the rural areas and that is how those pieces became ag.

So back to the criteria, what is "devoted to," what does it mean. There are lots of cases both a Supreme Court case, there are lots of Growth Management Hearings Board decisions, and I think what you -- at least three of you heard a lot last week or the last time that you met on this issue was there were a whole bunch of folks that said we can't, we can't farm our property anymore, we've had it for years, we can't make any more money on it or we don't intend to farm it, it just can't be farmed, and while those things aren't -- I'm sure are true I agree with Rich Lowry and I agree with the Supreme Court that that is not the test. The test unfortunately is not can I make money, can I -- does this piece of property have to have, have to be able to make money on it and the answer to that is no.

What the Courts have said is that it has to be either currently being farmed or it has to be capable of being farmed commercially, well, not just farmed but with commercial productivity. The Supreme Court said we hold that the land is devoted to agricultural use under GMA if it is in an area where the land is actually used or capable of being used for agricultural production and one of the things that you're going to hear from Bruce is, he's going to go through an analysis of the area around here and not just what's happening today but what has happened historically as far back as 30 and 40 and 50 years and you will see that this area does not meet the devoted to test.

And what's an area, well, what the Courts have essentially said is that it is those properties that are contiguous to the piece that you're talking about. The term "lands," and I'm quoting out of a Growth Management Hearings Board case, the term lands and the definition of long-term commercial significance means more than an individual parcel, it means the pattern of the contiguous parcels. So again, I agree with -- Lowry and I both agree that you cannot make your case solely based upon your piece of property, you have to make it based upon the area of the parcels that are around you. So even if you could meet that test, even if you find that this property meets the "devoted to" test which is either that it or the contiguous parcels around it are either currently being farmed or capable of being farmed, then you have to meet the long-term commercial significance test which is the second part of what the statute says and what the Supreme Court says. And what is that and the Courts have said that is, as well as the statute, it's growing capacity, it's productivity and it's soil composition, those are the -- those are the three criteria, you must have those, and then even if you do have those, then the question is your proximity to population and the possibility of more intense uses. So is it devoted to, is it currently farmed, is it capable of being farmed, was it farmed in the past, if so does it meet the long-term commercial significance test.

And with that I'm going to turn it over to Bruce Prenguber who is an ag economist and

there is an analysis of this property and its area in the record that you guys have had for a while that will walk you through this, the facts of this particular case, in light of the actual comp plan criteria or the actual criteria that Growth Management Hearings Boards, the Courts and the statute require. With that I'll turn it over to Bruce.

PRENGUBER: Thank you, and I appreciate the opportunity to speak to you tonight. I'm Bruce Prenguber, 9311 SE Butte Avenue in Vancouver. You have a letter as Randy said dated May 15th of this year that I authored, it was addressed to Randy Printz, containing my analysis of the Coleman property and the lands in that vicinity. My analysis really focused on the question is this parcel and the surrounding land agricultural resource land meeting the criteria of GMA. I will show that after careful consideration of the character of this parcel that, no, it is not commercial agricultural land and in at least the last 50 years there has been no significant commercial agricultural production on this property and there are very good reasons why which I will discuss with you this evening. Furthermore, with only one exception, and this property is not contiguous to the Coleman property, with one exception in the vicinity there is no commercial agricultural land and that one exception is a Christmas tree operation which is approximately a quarter of a mile to the north of this parcel.

I will go over the economic issues about what I consider to be all of the major possibilities of how you would use this type of parcel agriculturally in drawing my conclusion that it doesn't have commercial agricultural significance. Would you put this on for me, please. I have a few colored pictures that were taken on May 10th of this property and for the early part of my discussion I will put those pictures up as I make some points here. First I want to talk about historical use and conditions of this property. The prior owners of the Coleman property who were long-time owners have said that they never farmed this property. I looked at aerial photography that was available for 1955 and 1974 from Clark County Department of Assessment and saw that while there was some open areas of this property, there was no evidence in those aerial photos that there was any kind of agricultural activity going on. The slide that we have put up you'll see some metal posts, there is some evidence of fencing around the perimeter of the property; however, that fencing is in great disrepair, it wouldn't hold any animals in, there's no wire up at this point for any animals to be held within the confines of the property. The next slide is just another slide along the fence line where actually there's overgrowth of that's gone over the fence line showing that for a considerable period of time there's been no effort by anyone to maintain the fences around this property.

I also want to point out that the Coleman property has never been placed in current agricultural use for the tax deferral program. I'd also like to point out that with the exception of the 31-acre parcel which is immediately to the east of this parcel which is currently being used for horse pasture, three horses and 31 acres, there is no surrounding property that has agricultural use. I am excluding when you have one or two cattle grazing on the property or you have what appears to be some haying going on on very small parcels, I would assume that what that is for is for, you know, that horse or a cow which is really hobby farming or kind of rural life-style use but it's not



commercially significant agricultural use of property.

This next slide is actually a picture of that 31-acre parcel that has been referred to as commercially significant agricultural land. You can't see really too well in this picture but in the foreground there's Scotch Broom, there's no evidence that it's been seeded or is maintained except by the grazing of the horses on this property.

PRINTZ: That's immediately to the west or the east of this piece?

PRENGUBER: Yes, immediately to the east. Okay. Let me go on now and talk about parcel characteristics and long-term commercial agricultural significance. As Randy said, soil types are often used as one of the primary determinants of agricultural significance. On the Coleman parcel the soil map shows two soil types. The first is cove silty loam soil. By the way, this property is fairly flat. It has some small slopes but not very much for the most part. And the cove silty loam is Class 6, the lowest class of soils that is available in the classification. And this next slide that I'm putting up is a close-up of some of these soils. I refer to them as muck soils, they're hydric soils, they are not -- you should not put cattle on those soils because first of all they don't like the grass particularly, it's fairly coarse sedges that are on these types of soils, and, secondly, it becomes quite muddy and it's really not a good agricultural practice to have animals by grazing that type of soil. These hydric soils are intermixed -- because of the undulating nature of the elevation of the Coleman parcel intermixed with some of the other soil class which is it's, I had it here, it's a gravelly soil, Washougal gravelly loam soil. So by my estimate of the 18 acres there's about 6 acres in the hydric soils intermixed with about 12 acres of these higher class soils.

Now let me show you what the higher class soils look like. I'm going to show this next slide which is one of the higher elevation parts of this parcel. In the foreground what you see is the only real open space on the 18-acre parcel, the rest of the parcel is either in brush or treed and this soil really is not very capable of producing any kind of agricultural crops at all and I'll talk a little bit more about that later. Now class soils are considered by SES to be prime; however, I think this is a classic case of a broad brush approach that's used as soil classification that when you look at some specific sites does really not carry forward. I have a slide that Mr. Coleman took of a garden area by his, by his house and you'll see some of these Class 2 prime soils. You can see stones or cobbles intermixed with the soil and it is very low productive soil. They've done a little bit of soil amendment actually in this area, this is right around their garage area of their house, but this is what's considered to be Class 2 soils and really honestly it's not very productive for any kind of agricultural cultivation.

Now I've also observed, I've driven this area pretty extensively, I've looked at surrounding parcels, adjoining parcels, and what they're in is open space usage. As I mentioned, the 31 acres has got some horses on it, across the road to the west of this parcel there's some open space, perhaps some of it's being hayed, I can't really tell for sure, but to call this land commercially significant agricultural land I think is quite an overstatement. There looks like people are as I mentioned before following a rural

life-style and perhaps haying the ground occasionally or putting an animal or two on several acres, but they're not driving any commercial agricultural significance from those properties.

Now I'd like to go on now and talk with you very briefly about the economics of production which I've looked at quite carefully. I've looked at many different types of uses that could be made of the Coleman property and it really holds for the surrounding properties as well. And what those are is first of all raising grain, cow/calf operations, dairy operations, Christmas tree production, wholesale nurseries and berry crops. Those are principally the types of commercial agricultural activities that one sees if there is activity going on in this part of the county. So what I have done is using the soil classification there are yield estimates that are made. For example on the Class 2 Washougal soils, you're supposed to be able to get 60 bushels of grain per acre or about 7.4 animal unit months per acre or about 2.5 tons of hay produced on this ground. So assuming that we have 12 acres out of 18 I've done some farm budget analysis of this area. If you raise grain on it using the U.S. Department of Agriculture budgets you have a net loss of \$130 per acre. Now I want to also point out that I gave no rent or value to the land when I did this analysis. And if you pay upwards of \$150,000 an acre which is the current market value of the land, you can see that you go very negative very fast in agricultural production. In a cow/calf operation with 12 usable acres you might be able to have 24 head of cattle, I think that's being quite generous when in fact there's been no evidence of any intensive grazing or use of this property for cattle production.

Again, USDA does not have a budget for an operation that small, the smallest budget that I saw was for about 130 head of cattle. In dairy it's about the same result, they don't have a budget because you wouldn't be able to run a dairy of that size of number of head of cattle. In Christmas trees, it's basically not usable for Christmas trees because again of the poorly drained soil conditions being as flat as it is and the hydric soils intermixed I virtually rule it out as any possibility for a Christmas tree production. Similarly for a wholesale nursery I've got documentation about the need for drainage in a nursery operation. With berry crops from strawberries to raspberries, those plants do not like as they say in agriculture wet feet and they would not put a berry crop on this type of land. So my conclusion is that there's very little, actually no viability of crop or livestock use for this property, and the surrounding soils, while they may not have the hydric soils in all cases intermixed as this does, they're basically the same type of fairly low productive and low fertile soils so that is why we haven't seen I believe historically agricultural use of the surrounding properties.

I'd like to go on and as kind of a concluding point put up, excuse me, let me give you another copy of that, I have a table that I've prepared for the other resource lands that you considered last month and I kind of put some factors up here of the Coleman property which is the top row underneath the titles here and then the Fern Prairie property, the NE 379th Street property and the Pekin Ferry Road property which you looked at last time. I'm not here to denigrate anybody else's property, but merely to make some comparisons for you to take a look at. The first, the second column is

about acres proposed for rezone, I want to point out that the Coleman property is the smallest of these properties. The next closest is 26 acres but it ranges up to 160 acres of the forested land in the Fern Prairie area. As I mentioned to you, about 30 percent of these soils are hydric in the Coleman property. All the other the next two properties are non -- completely non-hydric soils. The fourth property does have a combination of hydric and non-hydric soils, but I do consider, you could consider, those commercially agriculturally significant because one of the two parcels that was in that rezone is current use agricultural.

I want to point out again the Coleman property looking at the tax status at the last, the last column has never been in agricultural use assessment. The Coleman property also has been with no evidence of commercial farming use, it's treed and brush and except for Mr. Coleman's efforts to remove some of those blackberries and underbrush it was very much an unused piece of ground. It does not have any adjoining property in my opinion as commercial agriculturally significant. The Fern Prairie property was current, is currently in forest use, it's a 160-acre piece of forested property and it's in an area that does have some other forest lands around it. The 379th Street property has been farmed, evidence of clear cultivation of that ground, it's in an area that is very much a farming area, it doesn't have current use assessment. And then the Pekin Ferry property that we talked about which has some current use assessment. I think there's some -- the only point I'm really trying to make with you here is that there's some very significant differences among the properties you've considered which are resource lands as you've determined compared to the Coleman property. And with that I'd like to conclude. Thank you.

PRINTZ: While I get up and move an exhibit why don't you tell them why it is that you -- what expertise you have in these matters and why they should listen to you.

PRENGUBER: Okay. Well, I am an agricultural economist, I was raised on a wheat and cattle ranch in Eastern Washington. Went to Washington State University, took agriculture economics. Went to the University of Wisconsin, I have a Master's degree in agriculture economics. And I've spent my full career looking at agricultural lands. I do my consulting practice is around agriculture, I deal with farms and food processors all the time. So I deal with them throughout the Northwest, so I have a fair good of experience working in agriculture from the time I was a young boy until today.

PRINTZ: Thanks. A couple of concluding, I guess, remarks. One, if you take a look at this the sort of bull's eye parcel, up there is the Coleman piece, the one that we're talking about, and one of the things that you'll notice that around it is other than the 31-acre piece that is immediately to the east which is a picture of, the areas around it are highly parcelized, all of the areas that are hatched are actually all R-5 areas already. Those are already zoned R-5. The colors, I went -- we went out and we actually looked at all of this ag area out here and to see what -- which parcels were actually in current use tax status for ag, the only ones are the two green ones which actually aren't in ag, they're in forest, but to be accurate I wanted to -- we put those in. They're not ag pieces but they are two timber pieces that are in current use tax status,

and the other ones are way up in the corner, those yellow ones.

None of these other pieces are even in current use tax status, in other words they are not farming, they are not taking the tax benefit of farming, they're not having their property taxes reduced which virtually everybody who farms in any way in the county has always done, and there are good reasons to do it, so you dramatically lower your property taxes. Again, I mean all of the material that's in the staff report and that is in the record other than what we have put in assumes that this property is ag and then says why you shouldn't convert it. We agree with all of that, but that isn't the issue, the issue is whether or not it's ag in the first place.

I've got another little quote here from a recent Growth Management Hearings Board decision that talks specifically about this issue and it says that the Board, which in this case is the Growth Management Hearings Board, continues to believe that dedesignation of previously designated resource lands is possible under the Act. Given the importance of soils data and mapping and the large scale of such maps, it seems reasonable that as plans are reviewed and evaluated in terms of more current or refined information a jurisdiction may realize that mistakes have been made or circumstances have changed that warrant a revision to the prior resource land designation; however, since agricultural resource lands were identified and designated pursuant to GMA's criteria and requirements, it follows that dedesignation of such lands demands additional evaluation and analysis to ascertain whether or not the GMA criteria are met or not.

And what they're saying in this particular case what the local jurisdiction did was they just took it out and said, well, we don't think it's really ag anymore and we don't want it to be ag anymore and so they changed the comp plan and that was challenged and that jurisdiction lost. And they didn't lose because they couldn't do it, they lost because they didn't go through the property analysis that GMA says that you have to go through in order to make that determination. In this case, in this record that you have before you, there is not a piece of evidence, there's not one shred of evidence in this record, that tells you that this property meets the "devoted to" test or meets the "long-term commercial significance" test, there isn't any. All there is in this case is there is a substantial amount of evidence that says that it hasn't been farmed, the area around it hasn't been farmed, it's not farmed today, it hasn't historically been farmed, it doesn't have the soils that meet the GMA required test which has been recited by the Supreme Court of having soils that are capable of having long-term commercial significance. There is no evidence in this record of that to the contrary. And because of that it is our belief that this case is somewhat unique and that there is no evidence in this record that this -- that this Planning Commission could base a denial of this request on.

And with that I will answer any questions or get out of your hair. I tried to make -- actually I missed some of the stuff that I wanted in here trying to get through this to meet your time deadline so I apologize for that.

WRISTON: You did all right. Thank you. Any questions of the applicant?

DELEISSEGUES: I had a question I guess for the expert. On the other three parcels that you were referring to on your chart comparing those three to the one you're representing now, if the most lucrative agricultural practice was carried out on any of those other three at the current land prices in Clark County would any of those be economically viable in your opinion?

PRENGUBER: They may be is the best way I think I can answer it. You know, I think probably the largest gross revenue per acre is in nursery production. So my guess would be if someone was really going to maximize their revenue, they'd most likely do that. I've been sitting in on a lot of meetings of the Washington Raspberry Commission which has some local raspberry growers in the Woodland bottoms in particular and, you know, long-term farmers in this county are looking at their options, their non-agricultural options primarily because the value of the land has gotten to the point even if, you know, I mean they have to stay in current use assessment just to so the taxes don't eat them alive, so it's very, very difficult. But the other parcels, at least one of the other parcels was in an area there really seemed to be, you know, from the photos, I didn't see all those parcels, but from the photos it looks like there are just some commercial, some row crop production going on. But again to answer your question, I would say most likely it would be in nursery type production.

DELEISSEGUES: Okay. Thank you.

PRINTZ: And I mean we -- obviously we haven't done any analysis on any of those pieces --

DELEISSEGUES: No, I know.

PRINTZ: -- and we're not suggesting that they are in any way not -- that they either are or are not ag pieces. My guess is actually that they're probably not, but --

DELEISSEGUES: I just read the minutes, I wasn't here at the last hearing, and I had several questions and you touched on that and that was one of the questions that I had.

PRINTZ: The only reason, the only purpose for, for the I think that Bruce put the table up was simply that you had recommended, this Commission had recommended denial on those three and simply to show that at least based on what you guys had done last time we believe there were some differences between this piece and those pieces.

DELEISSEGUES: Thank you.

WRISTON: George or --

ALLEN: I do have a question. When did the current owner purchase this property?

PRINTZ: Is Monty here? When did you purchase this?

COLEMAN: A year ago.

PRINTZ: One year ago.

ALLEN: Thank you.

WRISTON: George.

VARTANIAN: Yeah, I have a question. I've always had a problem with the economic value of land when it comes to production. At some point if trees, Christmas trees, are \$10,000 a tree the land becomes productive obviously, but one of the things that Mr. Lowry said last month one of the criteria is was it in fact mapped properly, was the zoning correct when it was first done. That piece of property given the soils and the hydricity, hydricity, all the characteristics of it as it stands right now, and maybe staff can answer this or the applicant can answer this, was it in fact zoned properly, was it in fact mapped properly as being ag?

PRINTZ: Let me take a whack at that. Number one, remember that the County in '94, and we're working off the 2004 plan, but the County at least in '04 attempted based upon the criteria that I described based on parcel size and looking at the U.S. Soil Services, you know, maps and current use tax status, tried to take areas that they thought, you know, probably, you know, at least arguably could meet the test, they didn't go out and do any kind of the analysis that GMA requires in order to make an affirmative finding. It wasn't the County's fault, no county did that, I mean they didn't have the resources to do that, it's just that's how it was done.

And so unless the soil types dramatically changed because the actual -- the farming activity hasn't changed, there hasn't been any farm use on this or the area around it literally for 30 or 40 years at least based on aerial photos of this area, so that hasn't changed, unless the soil types dramatically changed then, yes, the County did make, you know, this property should not have been made ag in '94 and we're not aware of anything that would have, you know, any flood event or anything else that could have dramatically changed the soil types or the hydric nature of those soils.

VARTANIAN: Thank you.

WRISTON: And I'll actually say time and time again we've over the years in annual reviews we run across this all the time, actually annual reviews tend to true up or not true up what's been done on the ground which really is little or little or nothing. I mean it's pretty difficult to --

PRINTZ: Well, and at a comp plan level, I mean the County, you know, that's they don't have the resources and unless you happen to be a -- unless you happen to be a

property owner who as will come to you guys here later in the Summer who has an interest a very, you know, significant interest in one of those parcel specifics where we're submitting evidence into the record to try to demonstrate that we meet Criteria A, B or C absent those, which is the vast majority of the land out there, the County never has the benefit of that information and would have no, you know, real ability absent spending a gazillion dollars to go out and literally ground truth. I mean it's hard enough to do the vacant buildable lands analysis inside the UGA which costs, you know, we spent \$4.2 million in the last round between '99 and 2004 doing that. So, you know, you're absolutely correct, it's not, you know, it's not the County's fault in this, it's just it is simply the way in which this stuff gets done.

VARTANIAN: Yeah. No, I wasn't intimating that somebody didn't do their job right, I was just trying to get at how we got there, that's all.

PRINTZ: Right. It's just this is --

ALLEN: Now if the USDA had classified it as a specific soil type, prime, did anybody contact the USDA about this site-specific dilemma to see if it really is prime or it really still qualifies to be prime or has something changed to where they would say, no, it's no longer prime?

PRINTZ: I think that they would -- I mean the soil type that they have it mapped as is probably relatively accurate, and I would defer to Bruce on that, but even within those categories depending on what is, what is around it, what is overlaying over it, what it is intermixed with and the -- and particularly the hydrology of this site will dictate in large part whether or not it's capable of being farmed. And again, you know, the "devoted to" is it, you know, is the area and it is in this county over in, you know, 40 or 50 years ago not exclusively but certainly out in this area, it is highly likely that if something was capable of being farmed it was farmed in those days and there is absolutely no evidence that we can find, and certainly there's no evidence in this record, that that this piece or the areas around it have been in any way, shape or form actively farmed for long-term commercial significance for 40 years.

ALLEN: Of course most people that purchased property there probably did not have an intent to farm --

PRINTZ: Right.

ALLEN: -- and that's why they had made a personal choice not to upkeep the fences and not to --

PRINTZ: I agree with that.

ALLEN: -- keep the animals out there as well so that --

PRINTZ: I know, I agree with that, but that doesn't change -- I mean it sort of doesn't

change the facts of what exists out there and has for a long time.

VARTANIAN: If I might, we have testimony from Futurewise that indicates that the USDA classifies this soil as prime farm land.

ALLEN: Correct. And that's why I was asking, you know, if that is incorrectly mapped, why wasn't the USDA asked to see if they could revisit that particular issue and grant their opinion on it whether it still continues to be prime land or if the classification should be changed by them or by some other experts.

PRINTZ: First of all only a portion of it is, and second of all, all they did was they just looked at the book. I mean they haven't gone out. I mean you've seen pictures of this and you've got an expert sitting here who has spent a lot of time with this dirt and a lot of dirt around the county and at least in his opinion it doesn't meet the test.

PRENGUBER: You know, I think we have to remember that the soil classification that USDA has done is a nationwide classification, it's six classes, and I mean when they say that you can raise 60 bushels of grain, that's not really very high production for calling it prime. So, you know, I think they used a lot of factors, erosion is a big deal with they used to be called the Soil Conservation Service before their latest name and they were all about erosion control and if it was flat ground that wasn't hydric soils, I think to most soil scientists that goes a long way to calling it prime irregardless of whether it really can produce very much of a yield of any of these crops, and I think this is a classic case where a very broad label has been applied to a type of soil that when you go out and ground truth it and you look at the cobbles and what is the Class 2 soil and you see that it's low fertility rate, you just can't agree with that classification. Meanwhile, you know, they had to do that on hundreds of thousands of acres so they used that broad brush approach and so I think that is why, you know, these classifications sometimes when you get down to specific areas and specific sites, that's where the rubber meets the road and I'm just afraid in this case there was a misclassification even though it's within the USDA soil classification system.

WRISTON: Okay. Further questions? All right.

PRINTZ: Thank you very much.

WRISTON: Thank you.

DELEISSEGUES: Okay, thanks.

WRISTON: Is there anyone else in support of the applicant's request? Is there anyone else who would like to testify with regard to this matter? If not, we'll return to the Planning Commission. Wishes of the Commission? Discussion? Questions?



## **RETURN TO PLANNING COMMISSION**

DELEISSEGUES: Well, I have a little discussion before we go to a motion even if the clock is against us.

WRISTON: That's all right, throwing it out.

DELEISSEGUES: It seems to me that agriculturally economic sustainability is a matter of scale too. You know, maybe 50 years ago somebody with 20 acres could produce something and sell it locally and somehow make a living on that and I think now with the cost being driven down by bigger commercial operations elsewhere and transportation that they may not be able to do that. As far as soils go, my backyard's really great. I think that it would probably be prime soil in USDA's soil classification, but I don't think I could make a living in my backyard, so I'm not sure soil type is a very good indicator in and by itself of whether or not an operation is economically sustainable. And if it isn't, then I don't think it's agricultural land. You know, this small piece may be agricultural if we had 10 times that much or maybe 100 times that much, but 12 acres I'd, you know, I guess the question would be do you think that that would sustain a property owner without any outside source of income --

PRENGUBER: Do you want me to respond to that question?

DELEISSEGUES: -- even if he had a nursery or whatever? Yeah.

PRENGUBER: I think on extreme intensive nursery use you might be able to make it work. But I agree with your point, I mean the -- in Eastern Washington where a circle of irrigation circle is 120 acres on a pivot that has no labor requirements it's very hard to compete with the scale of agriculture that goes on within the state on small parcels. So I think it's very hard for most farmers in Clark County at the scale that they operate to be economically viable and I think 12 acres is at the extreme end of that spectrum.

DELEISSEGUES: You know, I drive around the county a lot and I'm just like Randy says he has and it seems to me about 70 percent of Clark County is either suburban or urban. You know, I don't really see a whole lot of agricultural operations in this county. There are some counties that are almost 90 percent probably agriculture and very little urban and when you look at it from a state-wide basis, you know, maybe some counties just aren't destined to have the same percentage of population in rural and urban areas as every other county in the state. And I don't think there's anything wrong with that, I think a county that has the ability to provide housing and jobs should do that. Maybe that should be their prime goal in life because there's, what, 70, 80 percent of the counties in the state of Washington can't do that, they can't offer housing and employment unless it's agricultural based and that takes many more acres than 12. So I rest.

WRISTON: Okay. Further discussion? I mean I'll throw in that, Dick, I, on this one I

absolutely, you know, saying on this one, I disagree with you all the time at all, I just on this one I tend to agree with you exactly on what you're saying in terms of the size of the parcel and the intensity and that's a great -- that's probably one of the best analogies or pieces of evidence I've heard on these arguments in Eastern Washington where you say that, you know, one circle is 120 acres and a lot of times we're looking at these little pieces and we're saying that should it be ag or should it be forest and that the counter to that is, well, someone will come along and compile all these pieces and make something big out of it. Well, that's not happening and that's certainly not happening at today's prices. But looking around at this map that we have up here we have a lot of R-5, a lot of parcelization, and so I tend to agree with what you're saying, Dick, and I think that you guys put on good, good testimony as to the at least the two, the two factors that we need to be looking at so.

ALLEN: Although I agree with what was being said I have to think about what exactly are we here to consider tonight and in this particular case we are seeing, you know, based on the documentation that was provided to us it appears that it really does not meet the criteria for redesignation under the Clark County's comprehensive plan and also the Growth Management Act itself. As it have been mentioned by you and Mr. Lowry as well, current and past use of this site in itself, you know, is not an indicator of whether this is viable agricultural land, but also there is a requirement that if this particular site qualifies under the GMA for the resource designation, then it must be designated as such unless it was mapped in error and I really did not get the clear distinction between error and maybe something because, you know, the USDA did not provide their input on this, you know, and that's why I'm a little bit hesitant, you know, as to whether or not this is really truly an error in mapping.

But also I have to keep in mind that last year the Board of Commissioners had supported to review the criteria and the County policies from what I understood at the last presentation that was made and -- but the decision was deferred I guess to consider this until the year 2007, so I feel uncomfortable of recommending approval for this and doing an incremental approval for sites that are still designated as AG-20 under some of the classifications that the USDA provided. And then I also don't see a nexus, you know, between the USDA's analysis and what was provided tonight. I mean there is an economic, definitely an economic factor there, but I don't see the factor between the soil classification being incorrect or mapped incorrectly.

So I feel uncomfortable about making approvals for changes prior to (inaudible) decision that may be forthcoming in the year 2007. But again, you know, the bottom line for me is that if it is, if this site, it was sort of used for grazing in the past so it doesn't mean that it cannot be used for grazing again in the future, but also what if the current owner sold it to somebody else who owns the land next door to it, then all of a sudden you have the area consideration as well which you had also mentioned, you were talking about the area or the pattern in the area itself, you know, could somebody else use it for agricultural grazing production or whether it's on a large scale or a small scale. I mean, you know, the economic visibility probably will not be there in most of the cases all over the county and probably outside of the county, but, you know,

looking at it from a perspective of this was historically an agricultural land, this was classified as AG-20, and thinking of what Mr. Lowry said and what you yourself had said that if it's currently capable or could be capable of agricultural performance, then it's still agricultural land.

So therefore I would defer, the 2007 consideration to me would be something that we should be striving for and should be maybe pressing the Board of Commissioners to consider at that time to consider all of this, including this particular case for redesignation.

WRISTON: Okay. George, do you have any --

VARTANIAN: Well, just a question of staff. Has anybody from staff gone out and looked at this area? I mean does staff have a difference of opinion from the USDA or agree with USDA or --

RUDZINSKI: We did do a site visit and obviously we are not soil experts so we didn't do any kind of testing, we basically looked at the site to see what it looked like and what the general area looked like. You know, I think that the information that's in the staff report, that's in the SEPA report that relies on the County's mapping system, is consistent with what was presented. I mean there's 74 percent prime farm or prime soils on this site, there are hydric soils on this site, you've heard that those might be interspersed with the prime, we can't really speak to the productivity, but we go to why was this mapped originally and was it an error. Well, there's an awful large area that it's a part of that's actually designated for agricultural use and it was based on a variety of factors, some of which have been discussed tonight and disputed tonight, but we have the information we have and have determined that it does not meet adopt county policy for conversion.

VARTANIAN: The problem I have with when we say this area was mapped, I mean what if you buy the piece of land that's the only land within 50 acres that in fact has nothing but gravel on it and that's the acre you bought, you know, the criteria that it's amongst all this other AG-20 which is wonderfully fertile except for this pile of rock that I bought, does that mean that we shouldn't rezone that particular acre if it's only talking about fertility of the land and --

ALLEN: And then I have a question about, you know, the current use assessment that you had mentioned. From what I understand that's a voluntary program and that people would have to meet certain criteria including a management plan for the site in order to qualify for that. So just because the property is not in a current use assessment doesn't mean it is not agriculturally viable and/or they could not be capable of agricultural viability in the future, it's just that that owner did not choose to be in a current assessment program. Is that correct?

PRINTZ: That's true. But the current use tax status is actually one of the specific statutory criteria.

ALLEN: But not everybody has to participate in it --

PRINTZ: Correct.

ALLEN: -- if because, you know, a lot of people cannot meet the criteria because of the management plan and/or personal choices for their farming practices.

PRINTZ: Right. It is, it would be highly rare, though, for anyone who had a farming operation in Clark County or anywhere else in the state to not be in current use tax status. There are lots of folks who in '94 for example when we had a lot of these and we were arguing about them before the Growth Management Hearings Board for weeks on end who were in current use tax status and were attempting to argue that they still even though they, you know, yeah, they had their lower taxes but they still couldn't make any money. And while that was actually true the Growth Management Hearings Board beat them up pretty good because they were in current use tax status.

So while I agree that there's certainly nothing mandatory about it, it is certainly indicative or initial of whether or not a piece of property has any capability for being farmed. And again, your guys' decision is based upon the actual factual record that's before -- that's been made here tonight. And there may be other information out there that if somebody would have talked to somebody else, who knows what would have happened, but the record that's here I think is pretty clear.

ALLEN: But then I also have to look at the other GMA goals; i.e., focusing the growth in urban areas that has sources and infrastructure for that and --

PRINTZ: But that's not in any of the criteria for ag under the law.

ALLEN: I do believe that that was something in the staff report discussing, can you elaborate on that, please.

RUDZINSKI: That's our GMA countywide policies that we also discussed in the staff report.

PRINTZ: Right, but they relate to ag. Once you're ag they all apply. The question though is is it ag. If it's ag then I 100 percent agree that all of those plans and policies and goals apply and we are toast if this is ag. I won't be here. I mean I would, I would not bring this to you, we would look stupid, but because we couldn't meet the criteria. But your guys' job under the law is on this record is this ag or isn't it. If it is, then all those policies apply and I admit to you that we won't meet them, but the question is whether or not under the specific statutory criteria, the Supreme Court language and all the Growth Management Hearings Board cases which all say exactly the same thing can you demonstrate that this property is both capable of, and there's no evidence in this record, that it's even capable of much less having long-term commercial significance.

RUDZINSKI: If I might just add --

ALLEN: Yes, please.

RUDZINSKI: -- and the applicant may disagree with this, but staff did include transportation policies and housing policies and land use element policies that do speak to sprawl and encroachment of additional residential uses within agricultural areas so.

DELEISSEGUES: You know, and I'd comment on your transportation where you're talking about, you know, there's no public transportation, half the locations within city subdivisions don't have public transportation, you can't use a goal as a standard. I mean if it passes it, okay; if it doesn't, no. We wouldn't have any property in the city except those that are on a bus route. I mean that's ridiculous. And that two additional houses can generate 21 additional trips a day, it depends on who lives there. If my wife and I were living there, we wouldn't generate 21 trips in a week.

VARTANIAN: You ought to get out more.

ALLEN: We do.

DELEISSEGUES: You know, somebody that has 15 kids they'd probably generate 21 kids (sic) a day, that could possibly be, but I think that to use the maximum number of trips to generate it as, you know, a reason not to approve something as a standard is way, way off.

ALLEN: And then I have to look at the, you know, the ag resource versus the economical viability and from what I've been trained in you don't consider economic viability to designate the ag resource. I mean because, you know, the economic viability depends on personal choices, farm management and other practices, and it's a very -- I mean the economy is a great subject --

PRINTZ: But you are --

ALLEN: -- but for designation of the land you do not consider the economic factors to do that.

PRINTZ: That's not true. That is absolutely false. I mean I can pull the language out of the statute if you want. The two criteria which are right out of GMA, right out of 36.70A, and which are recited countless times in the Growth Management Hearings Board decisions and in the Washington Supreme Court decision, it is two tests, "devoted to," and we've talked about what that means, and then it has to have "long-term commercial significance" and that's where that economic analysis comes in, and you have to meet both of those before you can be ag and if you don't meet those, the County has an affirmative obligation to dedesignate.

ALLEN: Well, then we go back to what Lowry said, that, you know, if it's designated agricultural resource it has to, you have to show it as agricultural resource. But then on the other hand, you know, what you have brought up today I think would be an excellent forum for the future consideration in 2007 for the entire -- for the entire problem.

PRINTZ: Rich and I, I mean, don't disagree on the law at all and unfortunately -- I mean fortunately or unfortunately, I mean, the Board has, the Commissioners made the decision that we were going to have annual reviews this year and we are here and the applicant has spent a great deal of money and time and you guys have to take the criteria that the law gives you and make a call.

ALLEN: Sure.

VARTANIAN: I have -- sorry.

ALLEN: Was the applicant told that this may not pass the GMA criteria before they applied?

RUDZINSKI: Yes. These are the issues that are discussed in the pre-application conference, yes.

ALLEN: Thank you.

VARTANIAN: I've asked this question before, I'll ask it again, you know, we're looking at an area that's allegedly AG-20 and I see --

PRINTZ: It's zoned ag.

VARTANIAN: -- five, yeah, I see bunches and bunches of five-acre parcels, tell me again how that happens.

RUDZINSKI: The parcelization of the land?

VARTANIAN: Yeah. Sorry, yeah.

RUDZINSKI: I'm not familiar enough to know when parcelization happened. It could be that these areas were already parcelized by the time the agricultural designation was put on in '94.

VARTANIAN: Yeah, but does that make sense that we, you know, that we take a bunch of fives and say now this is all AG-20?

RUDZINSKI: Well, if you recall there are a variety of criteria that went into the designation of "agricultural land" and we've discussed many of them tonight, the soil

suitability, tax --

VARTANIAN: Oh, ag, I understand the designation of ag, I understand, but AG-20 as opposed to AG-5 if there's such a thing.

RUDZINSKI: I don't know if there's staff --

PRINTZ: There isn't such a thing.

RUDZINSKI: -- that can help answer that, but I don't --

PRINTZ: I could actually help you on this. I don't know whether it helps me or hurts me, but I'm not sure why you asked the question which always makes this dangerous but the --

VARTANIAN: Sorry, just, you know, it's not germane to this issue, I just, you know.

PRINTZ: The reason that most of those are five is they were, they were fives before the County zoned it ag. So what the County did is --

VARTANIAN: Okay.

PRINTZ: -- even though it was highly parcelized again the County went out --

VARTANIAN: Okay. Okay.

PRINTZ: -- and took a big paint brush --

VARTANIAN: Okay.

PRINTZ: -- and that's what you got.

VARTANIAN: Okay. Thank you.

WRISTON: All right. Any other --

DELEISSEGUES: Are you ready for a motion?

WRISTON: Yeah, one way, one way or another I mean.

DELEISSEGUES: Okay. I'd **MOVE** that we recommend **approval** for the comprehensive zoning map and resource lands with AG-20 zoning to Rural-5 and forward that recommendation on to the Board of County Commissioners.

WRISTON: Is there a second?

VARTANIAN: I'll **second** that.

WRISTON: Okay, good, because I wasn't sure whether I could or not. I've never been in this situation.

VARTANIAN: You have to turn the chair to somebody else.

DELEISSEGUES: There's usually more of us.

WRISTON: Yeah, there's usually more of us here. Any further discussion? One thing I'll mention, Sonja, at our -- some meeting, I can't remember whether it was a luncheon or some meeting with the Board, they requested that our -- that there be a kind of an executive summary of the rationale for why we're voting and who voted which way, I gather that's because they didn't want to read a hundred page a minute, you know, hundreds of pages of minutes, but there was a request that there just be a quick executive summary and so and so made the motion and so and so seconded it and so and so voted, you know, yea or nay so. All right.

DELEISSEGUES: Well, can't they read that in the minutes and just go to the last page, you know?

WRISTON: They could but they were fairly adamant on that if I recall. Were you at that last (inaudible)? They were fairly adamant on it.

DELEISSEGUES: I suppose I was. I can't remember.

WRISTON: Anyway, if there's no further discussion, roll call, and if you want to give a quick explanation of why you're voting for or how you're voting, that would be great.

### **ROLL CALL VOTE**

VARTANIAN: **AYE.** I vote aye, in favor of the motion as presented, for the following reasons: Number one, doing this would make it more consistent with the surrounding area which I understand is not all GMA oriented, but to me that makes some sense. Secondly, I'm not convinced that the land is in fact capable of long-term commercial significance however you define it. That term has always bothered me coming from a business background that the market determines what's commercially long-term significance and like I said before, if trees go for like \$10,000 a head, there's going to be a lot of Christmas tree farms, but if they're \$1 a head (unreportable sound) it doesn't do anything for you. So economic viability to me is not a good criteria. Is the dirt capable of making good stuff, I'm not convinced that it is.

DELEISSEGUES: I vote **AYE.** I just don't think we can use broad and general goals intended to guide countywide planning as strict requirements for individual site-specific requests and I secondly agree totally with the applicant.



ALLEN: **NO.** Although I do agree with what the applicant had presented, this currently does not meet the criteria for the redesignation under the Clark County comprehensive plan, nor does it meet the Growth Management Act and it, whether it's a resource that could be capable of agricultural production or not, I think should be -- I think that this should be considered as part of the bigger picture and if the Board of Commissioners is going to revisit this in the year 2007 to see what comprehensive changes they could make to this particular this type of a problem where a redesignation may be appropriate, but currently a finding could not be made under the existing law I think that that should be considered first before we can make the finding.

WRISTON: I vote **AYE.** Believe it or not I was sitting here in 1994.

PRINTZ: Oh, that's right.

WRISTON: And I know how we mapped these things and broad brush is a very, very good way of putting it. And, George, you asked, you know, why is AG-20 where you've got all the segregation and parcelization, well, it just this comes up in front us time and time again and it was very, very broad brush and people didn't know what hit them and still don't know what's hitting them when we're reviewing these areas. I clearly think the applicant has met the burden especially as Randy put it on this record to show that this was a mapping error.

I don't believe with all due respect that we need to get USDA out here to walk the -- I mean whether they -- I don't even know whether they even would and if they did who they'd bring out to walk and tell us that this 18 acres could productively produce agriculture, but I think the applicant stepped up with an expert that in my years on the Planning Commission I don't believe we've ever had an expert of your caliber to come in and testify to economic viability of, I think it's a first. I may be mistaken but I think it's a first to have an expert come up in this capacity and testify. In ag, and that's we've had experts talk about ag and we've had experts, certainly had experts talk about forestry, but to talk the way you did I think it's been, it was, I think you've more than met your burden.

So I just -- and I agree with what Dick said as well, I don't for every goal we can find competing goals. In fact I think, Randy, you opened with that, for every goal we can find competing goals that will trump the other goal and go back and forth, so I think you got to look at these on a case-by-case basis and I think the applicant has met their burden. So with that --

PRINTZ: Thank you very much.

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**, continued

2. **CPZ2006-00007 Guthrie** The property owner is seeking to change the Comprehensive Plan and zoning designation for parcel 119887-560 (0.346 acres) from Urban Low Density Residential with a R1-7.5 zone to General Commercial and CL zoning, located at 11400 N.E. 70th Avenue.  
**Contact: Darci Rudzinski (360) 397-2375, Ext. 4434**  
**or e-mail: [annual.review@clark.wa.gov](mailto:annual.review@clark.wa.gov)**

RUDZINSKI: This is CPZ2006-00007 and it's Guthrie. This is a request for a change to an approximate 15,000-square foot parcel from urban low density residential, R1-7.5 to general commercial. The subject parcel is north of NE St. Johns Road close to the intersection of NE St. Johns Road with 72nd Avenue. It is located at 11400 NE 70th Avenue. Currently there is a building on the subject site that is used for commercial purposes, I believe an electrical contractor is using that building, and the parcel's adjacent to commercially zoned property to the east and south. There is also residential in the immediate vicinity and we received no written testimony so far on this particular request.

Based on the information provided by the applicant and the findings presented in the staff report, staff recommends that the Planning Commission forward a recommendation of approval to modify the comprehensive plan and zoning maps from urban low density residential to general commercial. We find that the request is consistent with countywide planning policies and approving their requested plan and zone amendment acknowledges that historically this site has been used for commercial purposes and is appropriate for a commercial designation identical to adjacent properties. And due to the proximity of this parcel to NE St. Johns Road and 72nd Avenue, the historic use of this site for commercial purposes and its location next to commercially zoned property to east and south, their request better implements applicable comprehensive plan policies than the current map designation.

WRISTON: Okay. Thank you. We'll hear from the applicant Mr. --

DELEISSEGUES: I got a question of staff.

WRISTON: Oh, I'm sorry.

DELEISSEGUES: Is this parcel a lot in the low density housing development to the north, is it one of the lots in that? It looks like it's right adjacent and possibly is a lot in the --

RUDZINSKI: It is adjacent to residential parcels, yes. And it's not clear, we didn't do research on the subdivision of the area, but it's of a similar size and it's the same zoning. And, I'm sorry, I'll step back just a little bit. As you know, we've been grouping these annual reviews by type of requests, both this annual review and the next one deal with nonconforming uses, so uses that are currently on the site that are not

allowed by existing zoning, so their request is to go to -- to be approved for a zone that would allow for continuance use for a commercial use.

DELEISSEGUES: Okay. Thank you.

WRISTON: Any other questions? Sorry about that, I'm trying to move it on too quickly. Mr. Howsley.

HOWSLEY: Yes. Thank you, Chair Wriston, and members of the Planning Commission. For the record James Howsley, Miller/Nash, 500 East Broadway, Suite 400, Vancouver, Washington 98660, attorney for the applicant. You'll get me three times tonight so I'll try to be real brief with this one since we have staff supporting this one. Again, this is a change from R1-7.5 to limited commercial with a comp plan from going from urban low to general commercial. This site is approximately a 15,000-square foot parcel and it does contain a nonconforming use and the property has historically been used for commercial uses, it has never been used for residential property as far as we can ascertain.

The proposal here would allow an expansion of the existing commercial area to better fit with what is going in around it for future development. The property meets all the locational criteria for commercial and proposes to expand again an adjacent commercial node. It matches the properties immediately to the south and to the east. And the existing use there is compatible with the limited commercial uses adjacent to the property. As you know, the property is inside the Vancouver urban growth area and urban services are readily available to the site. And it does have sufficient area to allow for adequate screening and buffering compliance with the County Code with the surrounding residential uses. Enumerated in the staff report as well as our materials are a number of comprehensive plan criteria and goals that this request would further and in order to save time tonight I won't bother with that, but we'd just ask you to refer to our materials as well as the staff report.

So in summary, this application would bring the existing use out of nonconforming status and allow us to expand the use. It would permit the retention and potential expansion of a local owner-operated small business. It would allow the continuous employment of five employees that do work for this business that do make significant wages. I would encourage the development, redevelopment of a commercial node at the intersection of St. Johns and 72nd Avenue. And I would promote development where infrastructure and improvements are readily available.

In the record and in our application materials we also submitted some letters from neighboring property owners that do support this request, we would ask you to refer to that. As well we also put in the record a market analysis provided by Paul Dennis of Cascade Planning Group indicating the need for additional commercial properties in this vicinity. The County's transportation impact analysis concludes that the approval of this request will maintain acceptable levels of service for the transportation area. And again we would just refer you to the fact that the staff recommends approval, that

we've met all the criteria under the County Code and comprehensive plan. And with that I'd just answer any questions at this time.

WRISTON: Okay. Thank you.

DELEISSEGUES: Yeah, I have one question. How long has this nonconforming use been going?

HOWSLEY: There's some debate in the record but it's my understanding that a business was constructed there for farm storage equipment in 1988 and there is some dispute as to whether or not uses were allowed or whether commercial activity occurred on this site prior to that. One of the things that we argued in our narrative was that this site was erroneously designated in 1994 and should have been designated commercial at that time because of that building that went there in 1988.

DELEISSEGUES: So it actually predates the zoning, the use?

HOWSLEY: Well, the zoning there, I mean it predates the overall review of the comprehensive plan for the county in 1994.

DELEISSEGUES: Okay. Thank you.

HOWSLEY: Thank you.

WRISTON: Further questions?

VARTANIAN: Yeah, I have got a quick one and I'm not sure this is germane. What happens to the case, the code violation case, if zoning is approved here?

RUDZINSKI: I don't believe there's an active code violation case on the property. There was and it -- my understanding was that it went away because there was a change in property ownership and possibly a change even in the type of use, but there's not an active code violation case for this property.

DELEISSEGUES: Often this is the resolution. I mean often, you know, that's what we recommend is we get the proper zoning.

RUDZINSKI: Right. And we will see a difference from this case to the case that you'll be hearing next, Red Door Salon. This particular case there is no active code violation, it really is a use issue and as the applicant has said, they are looking to continue the use and possibly expand it which would obviously not be allowed with the residential designation they have now.

HOWSLEY: Yeah, and I would just ask you to refer to the pictures of the site in the record and you can clearly see that it's --

VARTANIAN: So it's not conforming only because of the zoning?

HOWSLEY: Correct.

VARTANIAN: I mean the business is licensed and all that stuff?

HOWSLEY: Yes.

VARTANIAN: Oh, okay.

WRISTON: Okay.

VARTANIAN: Thank you.

WRISTON: Any further questions? Anyone else who would like to testify on behalf of the applicant for the applicant? I have two people on the sign-up sheet. Joan and Jim Rooney, would you like to testify or --

ROONEY: Not on this one.

WRISTON: No. And Gary and Kathleen Guthrie.

GUTHRIE: The property owners.

WRISTON: Anyone, anyone else, anyone that wants to testify against the applicant? Okay. No further testimony, return to the Planning Commission. Questions? Deliberation?

### **RETURN TO PLANNING COMMISSION**

DELEISSEGUES: You say there's no, no written comment from any of the neighboring property owners?

RUDZINSKI: That's correct. There is some letters associated with the application that was submitted as the applicant has notice, but nothing has come in subsequent to the application being filed.

DELEISSEGUES: Okay. Thank you.

ALLEN: And this site has never been used for residential use; right? Is that what I read?

RUDZINSKI: We found no record of a residence being on the site and that's consistent with what the applicant has submitted as well in their application.

WRISTON: Okay.

DELEISSEGUES: Okay. Are you ready for a motion?

ALLEN: I **MOVE** that we recommend **approval** to the Board of Commissioners.

DELEISSEGUES: I'll **second** it.

WRISTON: Any other discussion? Roll call.

### **ROLL CALL VOTE**

ALLEN: **AYE**

VARTANIAN: **AYE.** Are you still looking for a brief explanation as to why?

WRISTON: If you like. On this one it's --

VARTANIAN: Yeah, it's fairly straightforward so I thank you.

DELEISSEGUES: **AYE**

WRISTON: **AYE**

WRISTON: Thank you. And, yeah, I think again just from what the Commission, I think it was, you know, it was fairly straightforward and the testimony bears it out, but we were in the -- obviously where we're going to be in something that's not as straightforward, then that helps. And so I appreciate that. All right. Do you got one more in you or do you want to --

HOLLEY: No.

WRISTON: No. Why don't we, why don't we go ahead and -- do you want to keep going?

DELEISSEGUES: Yep.

ALLEN: I think she needs a break, she's been typing away.

DELEISSEGUES: Oh, are you okay?

HOLLEY: If it's not very long I can do another one.

WRISTON: I don't know, it looks like it's going to be, this one I think is going to be, let's go ahead and take a ten-minute break. I think this one's going to be a little bit longer so let's take a ten-minute break. Thank you.

(Pause in proceedings.)

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**, continued

- 3. CPZ2006-00016 Red Door Salon** The property owner is seeking to change the Comprehensive Plan and zoning designation for parcel 098010-003 (0.28 acres) from Urban Low Density Residential with a R1-7.5 zone to Neighborhood Commercial and C-2 zoning, located at 9410 NE Hazel Dell Avenue.  
**Contact: Darci Rudzinski (360) 397-2375, Ext. 4434**  
**or e-mail: [annual.review@clark.wa.gov](mailto:annual.review@clark.wa.gov)**

WRISTON: All right. Reconvene the Planning Commission hearing. The next one is CPZ2006-00016, Red Door Salon. Staff.

RUDZINSKI: This is a request to change the subject parcel which is approximately 12,000-square feet from urban low density residential, R1-7.5, to neighborhood commercial, C-2. The subject parcel is located at 9410 NE Hazel Dell Avenue. The request is to bring an existing nonconforming business into conformance with the allowed uses in the underlying zoning, so there is an existing business on the site, it is a residence that's been converted into a salon, a hair salon. The parcel fronts and takes access from Hazel Dell Avenue. It lies on the west side of Hazel Dell Avenue in an area designated for low density residential. Parcels to the north, south and west of the parcel are developed with single-family homes. The Hazel Dell Towne Center is to the southeast of the site. Directly across the street from the subject parcel land is vacant land designated for mixed use and for community commercial C-3.

You have received four letters I believe in association with this case since it has been submitted. The first one was submitted tonight and it has several signatures on it including signatures from the Rooney's and from George's and the Olhausen's, that's one letter. We received a letter from Shirley A. Smith via E-mail on June 15th. We have the letter from Patricia Dahl, again submitted by E-mail. And one more, one submitted by Barbara T. Chen, Director of Finance & Administration for Clark County Foundation, Trustee for.

Staff is recommending that the Planning Commission forward a recommendation of approval to modify the comprehensive plan and zoning maps from urban low density residential to neighborhood commercial. We recommend this based on the fact that request, the requested plan and zone amendment would allow an existing nonconforming business to continue operating in an area served by transit and in close proximity to residential uses and other commercial uses, therefore the proposal meets policies that promote the reduction of single occupancy vehicle trips or trips made by means other than by automobile. The subject parcel is located in the urban growth boundary and is generally designed to serve neighborhoods. The existing use as a hair salon is the type of business or use envisioned in the C-2 zone. The amendment responds to substantial changes in existing conditions, notably the development of Hazel Dell Towne Center to the southeast. In addition, if the Planning Commission recommends approval of this request, staff does recommend that the recent improvements to the building and the site be submitted to the County for site

plan review to ensure that these improvements have been made or will be modified according to County standards. That concludes our report.

WRISTON: Thank you. Questions?

DELEISSEGUES: Does it meet all the rest of the requirements as far as parking, handicapped access, building code, all of those?

RUDZINSKI: We don't know. This is not a code compliance issue that we're considering this evening or that we're recommending approval for. We're looking at the -- the staff was looking at the use and the suitability of this site for the requested commercial designation. There is an active code compliance case on the property, but my understanding is that that has been basically put on hold until we can figure out the proper designation for the property.

DELEISSEGUES: Okay. Thank you.

WRISTON: Further questions? Applicant, representative. We need a name and address.

THOMAS: Hi there. The business name --

WRISTON: Your name and address.

THOMAS: -- or my name, Laurie Thomas.

WRISTON: And address.

THOMAS: The address is 3402 NW 128th Street, Vancouver, Washington 98665.

WRISTON: Thank you.

THOMAS: And that is actually my new residence that I've just moved into in the last three months. I wasn't sure if you wanted the salon address or my personal address where I live.

WRISTON: Personal address is fine.

THOMAS: Okay. Okay. Yeah, that's it. Did you just want me to go through with kind of what's my -- what my steps have been? This is actually extremely new to me, I've never had been at a hearing before and I've paid Norm Harker and Lisa, his daughter, to do a lot of the work for me. And I've actually handed over my folder to them because I had been working on this for a good three or four months and then recently gave them my folder two months ago and said here, gave him some money and said take over, you know, and so I've been remodeling a house right now and so I've been extremely busy. And so anyway, I'm just -- I'm ready to ask, answer anything that you



guys possibly want to hear or --

WRISTON: Are they going to be testifying tonight on your behalf?

THOMAS: The lessee that lease from me?

WRISTON: You said you handed Norm Harker and --

THOMAS: Actually he's with me but I'm preferring just to kind of do whatever I need to do myself.

WRISTON: Okay. Okay. You can give us some quick background and if you prefer to just have us ask questions, that's fine as well, but --

THOMAS: Okay. Let's see. This July will be two years since I've purchased the property and I had been at home with my kids for 13 years and hadn't worked out of the house and, anyway, had inherited a little bit of money and because both of my parents had passed away and just was real excited about wanting to do something in the future and so I saw this little house that was 100 years old and thought, wow, that would just make a great place for a business and for a salon. And, anyway, went down to school in Arizona and got my manicuring license and worked in a salon in Scottsdale and just thought that this would be something that I'd be interested in doing and when I went by and looked and saw the property was for sale I got out the flier and it said future possible commercial and I got real excited about that and kind of just jumped into the thing and thought, you know, I'll remodel this and buy it and, anyway, didn't realize how crucial it was to have the proper zoning.

And so in the meantime I've went on foot to several of the neighbors and had a roster at the salon asking people if they were -- if they were willing to sign it would they please sign it because we have a lot of the assisted living around us and, anyway, so we get a lot of the elderly people that come over on a daily basis. And I do know the house was extremely full of a lot of rats, animals, anyway, it was, it was pretty pretty bad and so -- and there was transients living in the backyard and stuff and so I mean it was just extremely ran down and we repainted it, carpeted it and I just did everything I could to make it look really cute and then all of a sudden I got this letter from the County saying that they needed me to follow all these instructions. And so I followed all the instructions so far and worked quite a bit on trying to get all the feedback I could on letting it stay a salon. And I've had handicap parking put in the back with a ramp. I've had the Fire Marshal come in and make sure we have the exit signs put up properly and the fire extinguishers.

WRISTON: Okay. Any questions?

DELEISSEGUES: Oh, I had a question but I got carried away listening to your --

THOMAS: Well, you know, I was kind of just going --

DELEISSEGUES: -- all of your accomplishments so I forgot what the question was. I'll think of it pretty quick.

VARTANIAN: If I might. Is it, I take it is it -- it's your intent that you keep this as a beauty salon while you're owning the property?

THOMAS: Yes. I have no intentions of making it anything else.

VARTANIAN: That's it for me.

WRISTON: Milada, any questions? No?

ALLEN: No.

WRISTON: Okay. Thank you. If we have any more questions we'll let you know. Is there anyone that's here also --

THOMAS: Am I done?

VARTANIAN: It's refreshing to hear from an applicant directly for a change.

THOMAS: I was just like going I'm not an attorney.

WRISTON: Well, you're all right. You're not that bad.

THOMAS: My son's back here and he says be sure and use big words, mom, don't look stupid.

WRISTON: No, we don't like big words, we don't understand them. Anyone else wishing to testify in favor of the applicant? Okay.

BERRY: Can I?

WRISTON: Yeah, go ahead.

BERRY: I'll be really brief.

WRISTON: You bet. I need name and address though.

BERRY: My name is Bryan Berry. My address is 125 North Garrison Road, Vancouver, Washington. I'm actually here on the next applicant but also and I'm looking at this and I say, hey, I know this place. The two houses that sit back behind her is part of a neighborhood called Points West, it's an upscale retirement neighborhood, I have a landscape maintenance business, we've mowed the lawns of those houses since they were built back in the '90's so I got a pretty good idea, you

know, history-wise of this house. She said it was about two years ago, that's about right. This is mostly an upscale retirement neighborhood, this Points West. Those two homes there are owned by widowed ladies who have come from prominent neighborhoods, you know, and as nice as Points West is it's a downsize from the life-style they were used to.

It was a shock to them because the history of this house -- I mean it's kind of common sense if you were looking for a residential home and a realtor brought you to this place, you'd say what are you thinking, where's the kids for my kids to play with, there's nothing else around it, so that was a very neglected I guess you'd call it a drug house, you know, and literally the ladies living in those homes they were scared about the neighbors that lived there and I mean they have been so ecstatically happy since this business has taken over there so the gal has done a great job. So I guess I just had to chip that in since I'm very familiar with this for about the last 12 years and know what the house has been. So if changing it to a commercial thing as opposed to residence, I mean the difference is night and day from what this place used to be to what it is now, it's a huge asset to the area.

WRISTON: Thank you. Any questions? Thank you. Anyone else wanting to testify in favor of the applicant? I've got a sign-up list I'll go through. I may have problems with some names, but Cindy Derhalli. I probably butchered that but --

### **PUBLIC TESTIMONY**

DERHALLI: No.

WRISTON: Okay. No. Lynne is it Wood?

WOOD: No.

WRISTON: No. Okay. Amy Hillard.

HILLARD: No.

WRISTON: Okay. I just went right down all three of you, didn't I. Alta George, do you want to testify?

GEORGE: Yes, please.

WRISTON: Okay. If I can get you to get your name and -- your name and address and testimony, please.

GEORGE: My name is Alta George and I live at 101 NE 94th Street and we've, some of the neighbors, I very quickly wrote up a thing tonight and you all have a copy of it and several of the neighbors that I had time to, signed it and if you want me to I'll just

read this briefly or no.

VARTANIAN: No.

WRISTON: I think everyone's --

GEORGE: You've all read it?

WRISTON: I think everyone's, yeah, I mean I think everyone's read it, I don't think you need to if you're referring to this letter here?

GEORGE: Yes. Yes.

WRISTON: Yeah, I think everyone's read it so if you have other relevant testimony that would be great or you can sum, you know, give us a summation of --

GEORGE: Yeah. The main thing about this business is since it's moved in there, we've been there 13 years and everybody else there has been there even longer in the immediate neighborhood, and it was like everybody said it was a mess, it was a drug house, it had crime everywhere and when Laurie built or fixed it into a business we were all ecstatic. In fact we wrote a letter at the time and my husband delivered it to her how glad we were that they were there as a business as this type. If this is -- what we're all afraid of is if this business is zoned a C-2, this means apartments are allowed. There's no apartments anywhere on the west side of Hazel Dell Avenue for quite a distance south and there's none north, I think there's a couple of duplexes north. There's going to be a high-end apartments in the Hazel Dell Avenue or the Towne Center immediately across the street from here and what we do not want is apartments on that side of the street. If it stays as an existing business as it is now we're all for it, but we do not want this changed so that apartments can come in there, it's all single-family dwellings all around it, the entire neighborhood.

WRISTON: Okay. Thank you. Any questions?

DELEISSEGUES: Well, just one. You know, I don't think the Planning Commission here can foretell the future, you know, we can only go by testimony that we have before us --

GEORGE: That's just it.

DELEISSEGUES: -- and, you know, I can certainly appreciate your concern, but would have to say that whatever we do we are only able to do it based on the information we have now.

GEORGE: Is there any way that the existing business can be approved without changing that zone to a C-2?

DELEISSEGUES: Apparently not, but that's a question for staff.

GEORGE: There's no exceptions?

ALLEN: It's not allowed in the current zoning; is that correct?

RUDZINSKI: That's correct.

ALLEN: Okay. I do have a question for you. The apartments that are being mentioned in some of the letters, is this site large enough to build an apartment?

RUDZINSKI: Yes. Based on the square footage of the parcel we've calculated that six apartments could actually be included in the future for example if this site were redeveloped, but it would need to be part of an integrated mixed use development, there would have to be commercial as the primary use and then if there was for example a second-story you could have six apartments as a second-story. We've discussed amongst ourselves and staff the viability of a small parcel going to an intensive -- a much more intensive use than what's on the existing site, and again we're not, we're not specialists in that area, but it seems relatively unlikely at least in the short-term that a site like this would be redeveloped to a mixed use commercial.

ALLEN: And of course if they wanted to go to apartment use, they would have to file permits and go through the process and adjacent owners would have to be notified and they could have input at that time?

RUDZINSKI: Right. Medium density is an allowed use again as part of an integrated mixed use commercial development. High density use is a conditional use in the C-2 zone, that would allow up to 12 apartments as part of a mixed use development. Again, you would be getting into access issues, parking, accessibility and a second-story might entail an elevator and all things are quite -- it would be quite expensive to develop such a site in that manner.

ALLEN: And speaking of parking, from what I can see there's enough space for parking for the clientele or is there enough for the clientele base as it is right now?

RUDZINSKI: I'm sorry, I don't know the development code well enough to know if there's required parking on the site. It would be part of a site approval process that we're suggesting the applicant would go through if they got the commercial, approval of the commercial designation, and all of those issues would be addressed, site improvements being code compliant --

ALLEN: Of course the commercial zone would require higher parking provision?

RUDZINSKI: Based on use and size of the building of the use, yeah.

ALLEN: Thank you.

VARTANIAN: I guess one question and one hopefully point I probably missed it, how big is the parcel?

RUDZINSKI: It's about 12,000-square feet.

ALLEN: 15,000 in the report.

VARTANIAN: Okay. All right.

ALLEN: Page 1.

VARTANIAN: I'm sorry.

WRISTON: No, that's all right.

VARTANIAN: And last month we got together, when we were sitting here doing something else there was a question come up about changing the zoning if there was an agreement that the zone change would limit, the limit, yeah, I asked the question about can we have conditional zoning. If the zone was going to keep in use the way it was at the time or was committed to a certain use could we then change the zoning, County counsel said, yes, there is such a thing as conditional zoning and it was a concomitant agreement between I guess the County and the applicant to limit the use, I don't know if that was into perpetuity or only while that person owned the property.

RUDZINSKI: My understanding -- excuse me.

VARTANIAN: I don't know what this means.

ANDERSON: Colette Anderson, Long-Range Planning. If you were to recommend that a concomitant agreement go along with the rezone, it's attached to the land until it's taken off so you could limit the use of that land under that new zoning.

VARTANIAN: Okay. And if the owner sold the land the concomitant use would stay with the land and to change that would take another hearing and all that stuff?

ANDERSON: They would have to come back to the County, yes.

VARTANIAN: Okay. Thank you.

WRISTON: Okay. Further questions? Thank you. Any further -- that's the end of my sign-up sheet, any further testimony on this matter? All right. Seeing none, return to the Planning Commission. Questions? Comments?

## **RETURN TO PLANNING COMMISSION**

DELEISSEGUES: Well, I think it's pretty straightforward. It looks like good work has been done where a house was in utter disrepair and now it's very as you say cute. You've done good work, the neighbors seem to support it, so I see no reason why we shouldn't.

VARTANIAN: Well, I tend to agree, I think it's very nicely done, it looks from the picture and I've been by the area a number of times, I'm glad that the neighborhood appreciates that it's there. It's unfortunate that we went ahead and did this without the proper approvals, but hopefully that takes care of itself. I would definitely support this if there was a concomitant agreement entered into to make sure that this stayed with the current use and hopefully that helps some of the neighbors around. I don't know how to do that though legally or we don't have counsel here so.

DELEISSEGUES: You can recommend it you know.

VARTANIAN: Okay. Yeah, as a condition I guess.

WRISTON: I mean, yeah. Staff, staff can work that out with counsel. And I assume by current, current, yeah, but I assume by "current use" you're not saying that it has to be a salon, just I mean some sort of --

VARTANIAN: Commercial. Well, some sort of a commercial --

WRISTON: Commercial use rather than --

VARTANIAN: -- use.

WRISTON: -- intensive apartments.

VARTANIAN: Preferably to stay in this building quite frankly but --

ALLEN: I have a question for you. Does that mean that it's like a contingency approval for a zone change or contingent approval upon concomitant agreement?

RUDZINSKI: It would be part of the approval.

ALLEN: It would be recorded as part of the -- it will go with the land like you said, it will be recorded in the record so a prospective buyer would be on notice, there will be full disclosure for that?

RUDZINSKI: That is correct. And if I could just take a moment to point out some of the findings in the staff report. Staff actually found that a mixed use development on this site that included residential would also be appropriate, so staff actually again anticipated that at some point this parcel might redevelop, we have to anticipate that,

it's sort of a worse case scenario, but even as such the traffic generation, the suitability for the site being adjacent to mixed use with the Hazel Dell Towne Center we still found that it would be appropriate even under that scenario so.

DELEISSEGUES: Yeah, I think so too. I don't see any need for any further agreement, just change the zone. Whatever they're going to do is going to require another public hearing if it's developed.

VARTANIAN: Not necessarily.

DELEISSEGUES: Oh, yeah, sure it would.

VARTANIAN: Some of that stuff is like a Type 2 review that you can is permitted.

DELEISSEGUES: Sure it would. If they went to apartments they'd have to go through the whole development process.

RUDZINSKI: They would have to go to site, site plan review, they would have to go through a development process, but they would not come back before, before you in a hearing because it would be an allowed use. If it was --

DELEISSEGUES: There would still be an opportunity to testify.

WRISTON: They would go through a hearing, they would go through a Type 3 with a hearing examiner.

ALLEN: I also think that this particular site is an improvement as to what they did, I just wish that they got the permits to begin with and I do hope that they pursue that avenue to make it safe for everybody and I do hope that you did a handicapped access ramp according to the ADA standards, and I do believe that this, this is a much better use than it was there before; however, I would like to see that concomitant agreement, excuse me, concomitant agreement to be recorded for full disclosure to any future purchaser of this particular property.

WRISTON: Okay. Is there a motion?

VARTANIAN: I make a **MOTION** that we pass along to the Commissioners **approval** for the request to include a concomitant agreement that goes along with the property to make sure that the property stays in this commercial venture, I don't know, I'm not quite sure of the words I want to use, either I don't want to say specifically a hair salon, but since I have some vested interest in that, but, you know, in some sort of small business application rather than apartments or whatever and I'm not quite sure if I'm using the right language here.

ALLEN: I **second**.



WRISTON: All right. This would probably be one that, Dick, I think he may have some disagreement with one aspect of it, the agreement aspect of it, and I probably do too, but so this would be one that I would think would be appropriate just to give a quick basis of your vote. You pretty much probably already have and, Milada, you may want to say why you believe that the agreement would be so. Anyway, roll call, please.

### **ROLL CALL VOTE**

ALLEN: **AYE**. And the concomitant agreement would be I think a very useful tool in the future if they do come in with a higher use like it was mentioned the apartments that there should be a special review to make sure that it still fits into the neighborhood scheme of things, and also that there's adequate parking and ingress and egress available for a proposed use at that time.

VARTANIAN: **AYE** for the reasons I stated earlier.

DELEISSEGUES: I vote **AYE** on the approval and I see no reason for the agreement because there would be an opportunity for surrounding neighbors to have input on whatever might be proposed in lieu of the current use before the hearing examiner.

WRISTON: The same with Dick, **AYE** on the approval and like Dick I don't see that the agreement is going to do a whole lot of good. As a matter of fact we're -- we spend a whole lot of time on this Planning Commission encouraging mixed use development and when we talked about six apartments I think that we're talking about basically six residential dwelling, not six apartment buildings or anything, we're talking about six units. I also think from a practical standpoint that this is .28 acres, perhaps again, I mean you got to look at worse case scenario I guess, I mean maybe someone goes up and buys up the whole area, but again, I think we're kind of trying to encourage that kind of stuff anyway, but as it stands right now .28 acres I agree with staff, the practicality of actually getting that done would be, would be horrendous. So I just -- I think -- I just think it's unnecessary so, but AYE definitely on the approval so. All right. With that we'll close the hearing on that matter. Move on to 2006-00005, Berry, Berry Fairgrounds. Staff, please.

### **PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**, continued

4. **CPZ2006-00005 Berry Fairgrounds** The property owner is seeking to change the Comprehensive Plan and zoning designation for parcels 117870-000, 117880-000 and 117890-000 (16.29 acres) of Urban Low Density Residential with R1-10 zoning to Urban Medium Density Residential and R-18 zoning. The subject site is located east of the proposed NE 15<sup>th</sup> Avenue alignment and north of NE 173<sup>rd</sup> Street.  
**Contact: Darci Rudzinski (360) 397-2375, Ext. 4434**  
**or e-mail: [annual.review@clark.wa.gov](mailto:annual.review@clark.wa.gov)**

RUDZINSKI: Both this annual review request and the next one you'll be hearing this evening are requests for a change in residential density from urban low density to urban medium density, so the issues explored in the staff report findings of compliance with applicable County policy include compatibility with neighboring uses, suitability of the sites for their requested zoning and potential transportation impacts.

Berry Fairgrounds, the property owner is requesting a comprehensive plan amendment and zoning designation change for 16 -- approximately 16 acres. The property is located southeast of the I-5 Clark County Fairgrounds exit, south of 179th Street. The site consists of three parcels, all of which are currently vacant. Future development on the site will be served by NE 173rd Street and that's currently unimproved. The level-of-service on NE 179th Street is not expected to be significantly impacted as a result of approving the requested land use designation and zoning. The land directly to the north of the parcel site, subject site, is vacant, but one of the parcels in the vicinity is the subject of County review for an attached town home subdivision. To the northeast is an existing town home development and there are single -- they are attached single-family homes to the south and west and single-family detached homes further to the south but areas in the immediate vicinity of this site are undeveloped.

Staff, the staff report also includes some information about wetlands on the site and one of the parcels is as highly impacted in particular by natural resource both riparian and non-riparian habitat associated with Whipple Creek so any future clearing or development of this site would need to be located outside of these habitat areas in order to comply with the habitat conservation ordinance. We wanted to bring that to your attention.

Staff is recommending that the Planning Commission forward a recommendation of approval to the Board of County Commissioners to modify the comprehensive plan and zoning maps from urban low density residential with R1-10 zoning to urban medium density residential and R-18 zoning. We find reasons for our approval to include the fact that approving a land use change that would allow higher density residential development on the subject parcels implements comprehensive plan policies that encourage housing options, maximizing the use of urban lands and increasing density in major centers. The subject parcels are suitable for an urban medium density designation. They are located close -- in close proximity to developments with similar residential densities and in close proximity to a commercial node located near the highway interchange. That would conclude our report.

WRISTON: Okay. Thank you. Questions?

DELEISSEGUES: And I just question the comments that you make under transportation. You know, we had 21 trips for two houses there in the first one we heard and now we've got, what do you got over here, 222 dwelling units and there's no problem. I mean I don't know what kind of ratios they're using in transportation

planning to come up with these trips, but they don't seem to be -- they don't seem to support each other. If there's 21 for two, there ought to be 444 trips and WSDOT's got a letter here saying that they think would add a significant number of new vehicle trips to the Interstate 5, NE 179th interchange. You say there's no public transportation, we used that as a standard in the first one because we wanted to find something for denial, but now there's no public transportation here either but we're using that as a reason for approval. I don't know. It seems inconsistent, you know.

RUDZINSKI: Would you like for me to try to address some of those concerns?

DELEISSEGUES: Not really. I just think it --

WRISTON: Go ahead.

DELEISSEGUES: It needed to be pointed out, but I'm not going to belabor the point.

RUDZINSKI: Well, on the transportation issues what we found in the staff report this area is developing into a major center, it has significant --

DELEISSEGUES: Yeah, I read, I read that.

RUDZINSKI: -- commercial opportunities with land that is already zoned commercial, there are higher density residential designations currently in the area, again, these are all -- this could be future demand for transit basically. Transit follows the demand and we feel like this area is -- has the potential for having a significant demand based on the commercial and higher density residential in the area, it's a little different situation with this site. The trip generations are based on formulas and the reason why we're seeing a significant amount of trips from this site is because the density is going up significantly, you know, from low density to medium density. Now we --

DELEISSEGUES: Has C-TRAN made any commitment to serve this area with public transportation?

RUDZINSKI: My understanding is they're going through a long-range planning process themselves, or they're starting to embark on this process, and are going to be looking at the whole of the county, but they don't have a long-range plan that we can look at to predict what's going to happen.

DELEISSEGUES: I think WSDOT's concern is valid frankly. You know, I'm not saying we should use it again as a criteria for approval or rejection, but it is something that's at odds with the staff report.

RUDZINSKI: And there will be impacts on the transportation system, but we found that the system can handle -- the system as it is today can handle the amount of trips that this rezone application would generate.

DELEISSEGUES: Of course we had a moratorium in the area so, you know, that hardly support the fact that it can handle very much more traffic.

ALLEN: And then also WSDOT identifies this as a high accident, incident corridor and that these new vehicle trips would be added to an already hazardous and congested interchange.

VARTANIAN: I would offer that, and this is really not the matter for the zoning because the development application will come up with the concurrency requirements and will in fact impact that, but I live in that circle over there, the condominiums, and you can't tell me that 220 more trips is not going to impact that corridor, you know, it's bad now so. But I, again that's not nothing to do with the zoning issue, it's got to do with development issues.

DELEISSEGUES: Well, if they came up with 21 more trips for two, what are they going to come up with 293. You got to multiply that by 21, it's a heck of a lot more. But, you know, go ahead.

WRISTON: Any further --

VARTANIAN: But besides that.

DELEISSEGUES: The point has been raised.

WRISTON: Yes, it has. Any further questions or comments for staff?

ALLEN: I tend to agree with the WSDOT's concern about the high accident area out here and one of their recommendation was that the property stay at above or the site-specific property would retain its current land use designation until after the completion of the new Interstate SR-502 interchange in 2009. From what I understand there may have been some delays in that anyway so that may not happen in 2009?

DELEISSEGUES: James hasn't even got a chance to talk yet.

RUDZINSKI: I don't have information about that, we just have the information that WSDOT has provided us in this letter.

ALLEN: Thank you.

WRISTON: Further questions? Mr. Howsley.

HOWSLEY: Yes.

WRISTON: Welcome back.

HOWSLEY: Thank you. Chair Wriston, members of the Planning Commission,

James Howsley, Miller/Nash, 500 East Broadway, Suite 400, Vancouver 98660, attorney for the applicant. I was going to be brief with this one as well because staff supported it, but obviously there has been some questions that have arisen --

DELEISSEGUES: No, no, be brief, be brief.

HOWSLEY: -- that I may be able to address along the way. Again we're requesting here going from urban low to urban medium, the zoning from R1-10 to R-18. The property does consist of three tax parcels at approximately 16.3 acres in size and we believe that the proposal will promote higher densities in the area where urban services are readily available rather than moving boundaries out farther. Again, it's located just south of 179th Street adjacent to the extension of NE 15th and to the future improvements to 173rd Street. It's surrounded by approved residential developments to the southwest and proposed commercial uses a little bit further to the west and immediately adjacent to the property. Adjacent to it to the east is the Whipple Creek Condos and to the southwest and west there are some residential subdivisions in R-18 zone as well as a town home project that will be going in and to the north would be vacant R-18 land.

Essentially the property is surrounded by urban medium on three sides. It does meet the locational criteria for urban medium designation and would assist in meeting the housing needs of the employers around the site including Washington State University, Legacy Hospital, Kaiser Permanente and other complimentary commercial retail, medical and office uses in the surrounding Salmon Creek area. The proposed zoning is compatible with and enhances the surrounding existing approved and planned residential and commercial developments in the area. It would provide a transitional buffer between the urban low subdivisions to the south and the more intensive R-18 zoning and commercial uses to the west and to the north. It's very close to 179th Street and the future extension of 15th and 173rd and would locate residential development along major corridors to promote a multimodal transportation system including the possibility of having C-TRAN out at 179th and I-5.

Again, despite some of the issues that were raised in the transportation impact analysis, approval of this request we believe won't result in any adverse impacts. It actually may result in an increase for multimodal opportunities and public transportation in this vicinity. You will also please notice just north of 179th there's some mixed use property that's currently in the urban holding designation that would also assist in promoting a little bit more transportation diversity in this area. According to the findings the plan transportation systems can accommodate the increased trips that this density would have and the development would be served by new improvements, NE 173rd and NE 15th.

And as dually noted by astute members of the Planning Commission, the property is in -- well, it's near the Salmon Creek moratorium area and if one trip would be sent down into that area, clearly this development couldn't move forward. And to address Ms. Allen's concern with what WDOT had stated, the potential of delaying this until

SR-502 came in to 2009, it may be following along with what's going on with the 134th Street improvements as we learned yesterday at the Board of County Commissioners' work session. We know the fix to the 134th Street area, and that's the construction of the 139th Street overpass, and as explained yesterday it sounds like we may get some short relief in the near term and then it will be back to moratorium again there. So by that time it would be hopeful that SR-502 would be completed and this development would be able to proceed forward with the development application and move forward.

Just addressing some of the habitat issues since there are some on the eastern portion of this property, we believe that approving this request won't denigrate the habitat there. Any future development will be required to comply with applicable County Code as well as any Army Corps of Engineers' regulations, Department of Natural Resources, Department of Fish and Wildlife and so forth. By approving this request, however, you further several goals of the County comprehensive plan including Policy 1.1.5, proposing intensive uses with inside the Vancouver urban growth area instead of promoting additional expansion. Policy 1.2.1, promoting a variety of residential densities. Clearly this would enable more density to occur in this area. 1.3.1, promote greater intensity and increase density in the Vancouver urban growth area. Policy 1.3.2, promote a mix of uses with commercial and high density residential locating next to each other and especially with the mixed use on the other side of 179th we have the opportunity to create a pretty unique node here. Policy 1.4.1, having interrelated uses next to one another. Policy 2.1.0, to provide housing attainable for all economic levels. And Policy 2 point, 2.2.6, to encourage a variety of density and housing types within the area.

In summary of this request we believe that approval of this matches the surrounding properties, it will promote a variety of housing types and densities in an area where employment opportunities and public services are readily available. We believe that the County's transportation impact analysis concludes that this approval of this will not cause adverse impacts and actually may assist in bringing about area-wide density that will promote multimodal transportation and get rid of single occupancy vehicles. And with that we ask you to follow staff's recommendation of approval on this request based upon their findings and the items that we submitted into the record. And with that I'll take any questions that you may have.

WRISTON: Thank you. Questions?

DELEISSEGUES: Yeah. Yeah, James, to your knowledge has anyone in the County stepped forward to take responsibility to work with C-TRAN to try to get some sort of public transportation for this area? Is that an ongoing effort or is there something that's actually being done, you know, to make that happen?

HOWSLEY: Well, it's my understanding, actually I think Commissioner Morris had mentioned something about that yesterday in particular to the 134th area, but looking at doing some kind of park and ride or some other type of thing up at the 179th

corridor.

DELEISSEGUES: Thank you.

WRISTON: Further questions? No? Okay.

HOWSLEY: Thank you.

WRISTON: Thank you.

DELEISSEGUES: Thanks.

### **PUBLIC TESTIMONY**

None.

WRISTON: Is there any further testimony on behalf of the applicant? Any testimony opposed to the applicant? All right. Seeing no further testimony, return to the Planning Commission. Desires of the Planning Commission.

### **RETURN TO PLANNING COMMISSION**

DELEISSEGUES: Well, just a statement. And I agree with everything you said, I think that's where density ought to be and that's what the plan calls for and I think with the exception of the transportation issue, you know, it's straightforward, but I would surely like to see somebody in a responsible position, maybe in Public Works or somewhere, take an active role in participating with C-TRAN to get transportation for that area. I think it would make a big difference, I think it would go a long way to alleviate WSDOT's concerns and to be fair. I mean the number I threw out for added trips is wrong because the R1-10 would certainly generate a lot of trips if we left the zoning the way it is so it would just be the difference between the two, it may not be quite as awful as I thought it might be.

WRISTON: Okay. Any questions? Comments? Is there a motion?

DELEISSEGUES: Well, I **MOVE** that we recommend **approval** for this request to the Board of County Commissioners.

WRISTON: Is there a second?

VARTANIAN: I'll **second** that.

WRISTON: All right. Roll call, please.

**ROLL CALL VOTGE**

VARTANIAN: **AYE** and I agree with Dick, Commissioner Deleissegues, because that is the appropriate place for density and the time to consider concurrency and all the other transportation issues is probably going to be at the development application stage and we need to make roads and transportation available to where we're going to put the people living and that's part of the comprehensive plan, albeit sometimes we don't face up to that all the time.

DELEISSEGUES: **AYE**  
ALLEN: **AYE**

WRISTON: **AYE** and for the reasons that George stated, I don't have concerns over -- well, I have concerns over transportation but the issues are very well dealt with during further processes in the future development application process.

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**, continued

5. **CPZ2006-00002 Meyers** The property owners are seeking to change the Comprehensive Plan and zoning designation for parcels 144276-000, 144306-000 and 144309-000 (6.74 acres) of Urban Low Density Residential with R1-6 zoning to Urban Medium Density Residential and R-12 zoning, located at 3405 NE 88th Street.  
**Contact: Darci Rudzinski (360) 397-2375, Ext. 4434**  
**or e-mail: [annual.review@clark.wa.gov](mailto:annual.review@clark.wa.gov)**

WRISTON: All right. We're down to our last topic tonight, hearing item tonight, 2006-00002, Myers. Staff, please one more time, you're doing great.

RUDZINSKI: All right. The property owners are requesting a comprehensive plan amendment and zoning designation change for approximately seven acres of urban low density residential, R1-6 zoning, to urban medium density residential and R-12 zoning. The property is located at, parcel, the subject, pardon me, the subject site is located at 3405 NE 88th Street. There are three parcels as part of this application. Two of the parcels lie to the southeast of the BPA right-of-way and a third lies to the northwest. Two of the parcels are improved with single-family residences and there's a mobile home on the site. In pre-application conference the owners indicated to staff that their intent was to develop the property with a senior manufactured home park. Mobile homes are allowed outright in the requested R-12 zoning district.

We did receive quite a few letters for public testimony, I counted 15, I'd like to just quickly read who those are from. There is a letter from Charles and Dorothy Cooper, John and Joyce Mottola, Jim and Earlena Morrissey, Gordon and Kari Gammell, Shelley Ross, Greg McNaught, Sandi McNaught, Catherine Wells, Neil and Debra K. Winters, Forrest and Vickie Gragg, Janielle Eveleigh-Tomlin, Jamie Granderson, Dan



Loyd, Myles and Carol, Myles and Carol Doren, and I believe that's it. Many of those came to us via E-mail either with letter attachments or their comments directly in E-mail and many of them are dated for today's date.

Staff is recommending that the Planning Commission forward a recommendation of denial to modify the comprehensive plan and zoning maps from urban low density residential with R1-6 zoning to urban medium density residential and R-12 zoning. Basically staff has found that granting their requested urban medium density residential designation and R-12 zoning would allow for residential development at densities much higher than most of the surrounding area. The requested R-12 zoning is not consistent with the existing subdivisions to the east, west and north that are built at densities consistent with the urban low density designation. To clarify the recommendation, we found that County policies can be met by the requested designation, but that the Code criteria for map changes based on site suitability have not been met. That concludes our summary.

DELEISSEGUES: Well, would that affect the zoning? I mean wouldn't that come up in the development phase?

RUDZINSKI: Well, it's the intensity of the residential development that's allowed on the site with the requested R-12 zoning, it's urban medium density, it allows for and actually anticipates a much higher density than what's in the surrounding area so.

DELEISSEGUES: Oh, I understand that part of it. I mean the second part where, you know, the development might not be sustainable?

RUDZINSKI: I'm sorry, can you say that again.

DELEISSEGUES: I thought you said that one of the recommendations supporting denial was the fact that proposed development might not be sustainable on the land?

RUDZINSKI: No site suitability. Is the site suitable for the requested --

DELEISSEGUES: Zoning.

RUDZINSKI: Yes.

DELEISSEGUES: Okay. Thank you.

WRISTON: Questions of staff? Any further questions? All right. Mr. Howsley.

HOWSLEY: Yeah, for the third time tonight, Chair Wriston, members of the Planning Commission, for the record James Howsley, Miller/Nash, 500 East Broadway, Suite 400, Vancouver, Washington 98660, attorney for the applicant. Again this is a request to go from urban low to urban medium R1-6 to R-12. The property consist of three tax parcels totaling about 6.7 acres, there is two existing homes and a mobile home on

the site. A 250-foot wide BPA easement bisects these properties. We believe that the proposal here will promote higher densities in an area where urban services are readily available. And something that was brought up in the pre-application report I need to get clarified here. As far as I know the mobile home park is not under consideration at this point, it was something that was mentioned at the pre-application as a possibility, but we do not have any development proposals in mind at this -- at this point.

As stated by staff, the property is surrounded by residential subdivisions on three sides and does have vacant underutilized urban medium R-22 land to the south. Further to the south you have commercial C-3 property and then there is light industrial and business park properties on 78th Street to the east along 88th Street. It's our contention that the proposed zoning is compatible with the surrounding mix of urban medium, urban low and commercial districts in the immediate vicinity. We believe that the proposal will provide a transitional district with the higher densities to the south and provide surrounding urban low subdivisions with some protection from eventual development of that property.

It is located along a major street, NE 88th Street, which is an urban collector and is scheduled for improvements in the TIP program. Future development of the property would construct cross-circulation to promote access between east, south and west. We believe that, again, the site meets the location criteria for urban medium zoning with it being located near commercial and residential uses with adequate transportation facilities. There is no other land zoned R-12 in the immediate area so really no alternative site exists in the immediate vicinity with this type of density. And this proposal would extend the existing urban medium district from the south to move up to front NE 88th Street much like the Fairfield Park subdivision which is immediately to the east. And if you'd please notice that area that's along 88th Street kind of in the northeast corner, that is urban medium.

I would like to show you a picture of that product there, that was a product developed by Pacific Lifestyle Homes, it's called Fairfield Park subdivision, thumb through those. Now granted this product was done at the R-18 zoning, but it shows what kinds of uses could go in the R-12 maybe at a little bit less density and how it can match with the surrounding uses.

DELEISSEGUES: Those are single-family homes; right?

HOWSLEY: These are single-family on small lots and I think the next one will show an attached product. Clearly an R-12 isn't meant to be as intense as an R-18, but we believe that this type of product can be consistent with single-family residential as indicated by Fairfield Park. Fairfield Park is surrounded to the north by the Avalon Hills subdivision which is an R1-6 zoning and has additional subdivisions surrounding it to the north, as well as eventual development, redevelopment of some properties immediately to the west that also have R1-6 zoning.

Again the property also meets the purpose statement of the urban medium from an open space and park standpoint because of the BPA easement that runs through the property would provide some park, park opportunities such as a dog park or some kind of walking trail. There is a new park slated right across or near the property across 88th Street that Clark County's building in the near future that would also seem to support a little bit more density in this area. Again NE 88th Street will be improved by a County road project and it's in the '06/'07 TIP. As indicated by the staff report, this request isn't anticipated to significantly impact the transportation system and cross-circulation would be provided when this project is developed which would integrate the area a little bit better. As indicated by staff, this proposal meets several of or a lot of the comprehensive plan amendment criteria. They seem to be just taking exception with this being compatible, but I think with this R-12 idea not being as intense as the R-18 you can see a type of project that can match very, very well with the existing houses that are there.

So in summary of our request, it's believed that this proposal will provide for a variety of housing types and densities in an area where public services are available. It will provide for a mix of housing densities where there is a shortage of urban medium land. It will maintain the residential character of the area. It won't cause any impact to the County's transportation system. And staff recommended approval for on every point with the exception of the appropriateness of this being compatible with the surrounding sites. We didn't have a huge opportunity to get -- go through the neighbors' comments today as we just received the E-mails today and a lot of the concerns seem to relate to the BPA easement. Clearly that area won't be disturbed as that's an easement that's granted to them. We believe that the property can develop today as a subdivision under our current zoning so the existing open space that is there might be gone anyway. We believe that development of more intensity can comply with buffering, screening and landscaping standards through the development and procedures that will help it be more compatible with the surrounding uses. And we believe that public facilities such as utility, schools and transportation are immediately available that would seem to promote this kind of density in this vicinity. So with that I'd be willing to conclude my remarks at this time and just have the opportunity for rebuttal unless there's any questions.

WRISTON: Are there any questions?

DELEISSEGUES: Well, I think one of the main concerns is the fact that at least in the staff report it says the owners indicated their intent to develop the property with a senior manufactured home park. Does this picture represent manufactured homes? It doesn't look like it to me.

HOWSLEY: No. And I think that that was something that came out of the pre-application report and it was prior to my involvement in the case and since that time I've had an opportunity to meet with the client and discuss other alternatives. And again, there is no development proposal that I know of that's slated for this project.

WRISTON: Aren't manufactured homes allowed in the --

DELEISSEGUES: They are.

WRISTON: -- R1-6?

HOWSLEY: They are allowed in the R1-6 as well.

WRISTON: Okay. I mean I just wanted to, yeah, I mean they could -- it could happen regardless of whether it's --

DELEISSEGUES: Yeah. The other point I guess would be the same as we made before, that in the application process there's certainly an opportunity for the neighbors then to know what exactly you are planning to do and to comment accordingly?

HOWSLEY: Correct. I just brought these pictures to illustrate what can happen obviously. Again, this is a more intensive zone, this is R-18, but it's something that is nearby, it's something that does blend really well into the R1-6 that surrounds it.

DELEISSEGUES: Okay.

WRISTON: Okay. Any further questions? Thank you, Mr. Howsley.

HOWSLEY: Thank you.

WRISTON: Is there anyone else willing to -- that would like to testify on behalf of the applicant? Please. I need a name and address.

SMITH: I'm Don Smith, 3417 NE 85th Street and I'm the largest property owner on that that borders the applicant's proposal.

DELEISSEGUES: Could you point out on the picture where your property is or have somebody do it.

SMITH: Yes. I'm on the southeast corner. Right there to the right, there.

DELEISSEGUES: Thank you.

SMITH: As you saw in the picture a minute ago the R1-6 homes are two-story, single-family manufactured homes are designated more or less for the retired person and to meet your criteria more residents, less traffic. On R1-6 you normally have both people working, two cars going and 55 and older parks you have normally no one working and some snow birds so your transit is much less than you would have in an R1-6. I'm a residential Clark County real estate agent and my people ask for ranch homes because they're coming down out of two-story homes. We're -- you folks are supplying New Traditions, Pacific Lifestyle subdivisions and they're going like gang

busters but everything they're building is in a two-story phase. The majority of the adult people today that are retiring are coming down out of larger homes, smaller families and they want something that they can get in and out of. 55 and older also has a feasibility for the neighborhood, less traffic, less crime, better family oriented. I don't know if you are familiar with the Gaither Park on St. Johns but it's beautiful and they've done a nice job on that. And I know Mr. Myers personally and I know he's patterned this project after that type of a park and I wanted to pass this on that I polled the neighbors pretty much and they're all in agreedance that the ranch type home with senior 55 and older is more desirable than the high traffic two-story single residential homes.

WRISTON: Thank you. Any questions? Okay. Thank you. I have a sign-up list here and I'm going to try to go down through it. I'm having a tough time on a couple of the names but it looks like Thom Holf.

### **PUBLIC TESTIMONY**

HOLT: Holt. Holt.

WRISTON: Holt. Holt. Okay. Thank you. Get a name and address from you, Thom.

HOLT: My name is Thomas Holt. I live at 8516 NE 36th. My concern is more towards the development of traffic in this area and the utilities. When you put that other over there in the sink a couple of years ago our water pressure went down. Needless to say they come out, I've got a fire hydrant on my corner and they come out and they monitor it two or three times a year, leave a gauge on it just to see what the water is. But I'm concerned about this 85th to that 86th when you get that second and third section developed or proposed to get it in there where is this traffic going. And the reason I bring this up, 35th and -- I mean 36th and 37th Street goes through that Hoffman Heights section down there to 82nd, you let anything and in the afternoon when the traffic is backing up on 88th to the light at St. Johns we have all these cars that are going through there on three wheels around these corners to beat that light to get over on St. Johns and then they turn and go south, but the where I live there on that corner it's all the time.

And as far as Don was speaking about the density of the children, we have very few little children, there's only a couple of them that are around over on 35th, they let the children out on the middle of the hump there on 36th, there's only one at the other end, so that way, but what I'm concerned about is, okay, you open up the -- put a road across there and it's going to have to go across there, all it does is just to me it's going to make a longer speed race to get around 88th. And I realize 88th is going to be developed here in seven to ten, our section there is -- towards is going to be towards the end. Over on 82nd you mentioned a park over there off of 88th, well, there's also a section designated off of 82nd that is a -- can be turned into a park area that the County owns so that is another possibility. But thank you for your time.

WRISTON: Okay. Any questions?

DELEISSEGUES: Just one. Are you concerned about the proposal as R-12 generating more traffic than it would as --

HOLT: I do not like -- personally I do not like the cookie-cutter houses that's over in that new subdivision. Yes, I drive through it so I'm quite familiar with them, we have a friend that lives over there on the other side in a ranch-style home.

DELEISSEGUES: Yeah, I guess I'm just looking for a yes or no answer to clarify your testimony.

HOLT: I would just soon have the lower storied houses than the cookie-cutters, let's just put it that way.

DELEISSEGUES: Okay. Great. Thank you very much.

WRISTON: Thank you. Lawrence Gray.

GRAY: No, that's okay.

WRISTON: You're all right? Martha Myers, I assume you've been --

MYERS: No, I'm okay.

WRISTON: Okay. Roger and Maxine Song.

SONG: My name is Roger Song and I live on 8910 NE 32nd Avenue. What I'm concerned with is the vagueness of the testimony that the lawyer gave about the manufactured homes. Are they going to put manufactured homes or are they going to put stick built homes? Do you know?

WRISTON: Yeah, that's something that they don't know, they actually don't even have to really talk about it.

SONG: So when does this issue come up for grabs again?

WRISTON: During the development process. This is just the zoning and then during the development process they'll propose something and then there will be a public notice and hearing and --

SONG: And then I got another issue is that why are they pushing this medium density when on the west end of 88th Street they're putting all this apartments and then a commercial is on the east end near St. Johns?

WRISTON: Yeah, okay.

SONG: You know, we're all single-family dwellings with 10,000-square foot lots, at least mine is, but I don't know about the rest of them so.

WRISTON: Yeah. I can't answer that for you.

SONG: And then there's the traffic issue too. When you come out of 32nd Avenue and go on to 88th and if you look to the east you can't see the oncoming cars until it's almost too late because of the rise in the line of sight distance and you're going to put 80 more cars out on the street?

WRISTON: Well, again those are -- that's a valid concern.

DELEISSEGUES: Yeah, it all depends on what they propose.

SONG: When is the 88th Street improvements going to be done?

DELEISSEGUES: Wrong department.

SONG: I mean you guys got to correlate all this stuff.

DELEISSEGUES: No, I know.

WRISTON: Well, I mean a lot of it, a lot of it does at the, but again --

ALLEN: I think staff had addressed that on Page 1, the last paragraph there. I think you had said something about the future development proposal and that on that last page you talk -- I mean that first page you're talking about the County will be improving the NE 88th Street as the project is in the '06/'07 STIP and any future development proposal for the site will need to pay for a proportional share of these improvements.

RUDZINSKI: So those improvements are planned in other words --

SONG: Will it be something like 99th Street with the center turn lane or --

RUDZINSKI: I would have to see if our transportation impact analysis is that detailed to --

ALLEN: But they did raise concerns as well with this particular corridor; right?

RUDZINSKI: Yes.

ALLEN: Especially access and circulation problems?

RUDZINSKI: Circulation in particular, the transportation impact analysis has found

that there will not be impact -- will not likely be impacts to NE 88th Street considering the improvements that are planned. And again, as part of development the applicant or the developer will need to pay a proportionate share of those, of the cost of those improvements.

SONG: Okay. That's all I got to say. Thank you very much.

WRISTON: Any other questions? David or Kim Kay.

KAY: Hi.

WRISTON: Can we get your name and address.

KAY: Kim Kay and I live at 8604 NE 35th Avenue and I'm totally against this. I researched on the Internet zoning for R-12 and R-18, the problem is if they're granted that zoning who knows what they're going to put there, they could put apartments, I mean the list goes on, and I felt that that would devalue our home. They tried to compare Fairfield Park to the existing properties around that, it's not even close. Fairfield Park, they built all those homes on carriage lots which they're really small, I don't know the dimensions of them, but you'd probably get two of those houses on one of our lots. I'm really nervous.

WRISTON: It's all right.

VARTANIAN: It's okay.

KAY: Also the transportation there, public transportation is about non-existent. I think there is a bus that runs down 88th twice a day. My kids when they want to take a bus they have to go down to 78th and St. Johns. And then if they put a road in through 85th, people are going to come in because they already do this, they go up St. Johns Road, turn left on 82nd and then go through that subdivision there which I don't know what they were thinking when they built those roads, but there's a lot of little kids in that subdivision and the roads are narrow, you can't see and that would be bad. And I don't know what else I was going to say, but, yeah, I'm totally against it.

WRISTON: Any questions?

DELEISSEGUES: No.

WRISTON: Okay.

KAY: Thanks.

WRISTON: Thank you. David, Becky Terry. No? David or Becky Terry. Ray Nordquist. Dan Bengé.



BENGE: I'm Dan Benge, I live 8813 NE 32nd Avenue, Vancouver. I'm in the property -- there's a little bit of red on there but I'm right across 88th from the subject property, corner lot right on 32nd there over, right there. Actually part of that red there is there's a little bit of my -- it's not my property, it's the Myers' property but I maintain that so, there was something when they widened the road or something.

Anyway, moved from Chicago about nine years ago, know quite a bit about growth, I've seen it, been in the middle of it, growth is going to happen, I don't think it's something we should try to fight, we should try to manage it, I think, which is what you guys are all about. I've seen a lot of change just in the nine years I've been there. We had vacant property behind us, they built quite a few houses, I think they maxed out the R1-6 as much as they could, I have a house right on my property line now, that, it's just all part of it. I'm going to actually on the, quote, unquote, road improvement lose some of my yard. I think that's great only because we need the improvement.

The road itself is very unsafe right now, there's no sidewalks, bike lanes, anything, but in the meetings I've been involved with on the improvement it doesn't address the flow of the traffic, it's adding a third lane which is a center turn lane, they're adding sidewalks and bike lanes, so it's already quite frankly a zoo out there, you know, there's people that just don't even want to get their mail on the corner there. So I don't see how this can't impact traffic. I mean even if they put a road through on 85th to what is it 86th there, you have to spill out somewhere on the roadway whether it's 88th, whether it's 78th, somehow, St. Johns, you know, people are going to go somewhere, they're not just driving around the neighborhood.

I think the thing I hear here is, you know, we put pictures of houses up there, nobody knows what's going to be built, especially if we don't have a plan for development. I think the only issue is nobody's saying they can't build single-family or single-story homes on an R1-6, it's just a matter of how many homes you can build in there and the way I look at that, that's a little bit of greed. And I mean if everything is already zoned a certain zone, nobody's saying they can't accomplish what they want to do, they just have to do it within the current zoning.

So, you know, I can appreciate where you guys are and what decisions you have to make. I think the staff did a great job, you know, doing some studies. There's always questions. I know we argue about how many cars and how many trips are going to be taking, but regardless of what's done there it's going to increase traffic so I just think consistency is important and if we start changing things for other reasons that we're not sure what's going to end up there anyway, we have to be cautious about that. I know in the first case here we talked about looking at a map and saying how does AG-20 zoning in the middle of five-acre lots happen, well, we're in the midst of possibly making a decision like that. Somebody ten years from now is going to ask how did that happen so. I guess --

WRISTON: Appreciate it. Any questions of Mr. Benge?

DELEISSEGUES: No.

WRISTON: Comments? Thank you. Tony DeFrancesco. No? Unless I got that wrong. Or Tory, Tony or Tory. No. Anyone else wanting to testify?

VAUGHT: Good evening. I'm Bob Vaught and I live at 8515 NE 31st Court, that would be the southeast corner of the intersection of NE 31st Court and 85th, or I'm sorry, yeah, 86th, just before you get to the power corridor up there. While I spent some time researching this property and would like to think that there would be some reasons to look at it from an engineering standpoint, I understand the process that the next step would be of course through Community Development. I support wholeheartedly the staff's recommendation because the surrounding areas are low density, it should stay that way. It was mentioned that to the south there was some multi-family, well, immediately south of this property I think it abuts part of the church that's located on 78th and so I don't know that it truly -- I think the power corridor, I understand how the power corridor can be used, I bought my property knowing full well that the parcel was owned by the Myers, but I also through various projects understand how the power corridor can be used so I had no concerns about my -- the property behind my house.

But what I would say is you've been trained by staff, you've been trained by others to look at and investigate these kinds of zoning changes and I would plead with you not to take away our opportunity at some future date to be able to testify in a hearing for a conditional use permit. As I see it it's easy to say let it go to Community Development and then I'll find myself here with either a hearings examiner and he'll ask me, well, why didn't you bring this up when you had a chance to do a conditional use permit, and once you zone it to the higher density you're going to take away my opportunity to have any future involvement in how that property affects or impacts my property. And so I would plead with you for that reason to leave the zoning as is.

WRISTON: Questions? George.

VARTANIAN: I just have a quick question on that matter. Is a higher density -- if we leave it at R1-6 and he wants to come in and do 12 per acre would that automatically -- is that permissible under a conditional use permit?

RUDZINSKI: No. No.

VARTANIAN: I guess I'm not following then, I'm not following your point.

VAUGHT: But there are other uses that will be subject to a conditional use permit. There would be other uses they could propose in the future that if it remained as zoned there would be the opportunity to have public hearings on conditional uses.

DELEISSEGUES: Well, there will anyway.

VARTANIAN: Sorry?

DELEISSEGUES: There will be anyway.

VARTANIAN: Well, there will be a hearing anyway but --

VAUGHT: Yeah, but then the -- there are restrictions to how, what kinds of conditions can be placed on a property as it goes through in the Community Development process versus a conditional use permit.

DELEISSEGUES: Yeah. I guess we could spend a lot of time going into that and if Rich Lowry were here he could probably do a much better job, but I think usually those restrictions are placed on there to make sure they meet, you know, if it was a transportation issue or whatever comes up in the hearing examiner's testimony I guess from both the applicant and different people, Public Works and so forth, that are testifying, then sometimes there are conditions placed on development to meet those requirements but generally not in zoning. I mean we, we can recommend that, you know, it be zoned with certain uses, but whether or not the Board of County Commissioners would go along with that or even whether, you know, the developer would not appeal that I can't say.

But there would be another hearing and another opportunity for you to, you know, it would probably be more specific because you'll know exactly what the developer is proposing, at this point in time we don't require him to divulge and he probably doesn't know, you know, what he might end up doing. Therein is the dilemma, but we face that all the time in the zoning. I think the staff report probably goes into some other more pertinent relationships that we should consider, you know, in the zoning and I'm sure we will consider those.

VAUGHT: So your opinion is that if you move this to a higher density, then that use can occur without any additional -- without a conditional use permit is what I hear you saying?

DELEISSEGUES: If we recommend it and if the Board of County Commissioners approves it, I mean, and puts it into being, then the developer would come forward with his development plans and then there would be an opportunity for the public to get their input on those specific plans and probably your input would be a lot more specific because you'd know exactly what the developer is proposing.

VAUGHT: Well, perhaps I misunderstand the conditional use permit process.

DELEISSEGUES: You know, we need to hear your testimony here too, I mean there's valid concerns, you know.

VAUGHT: Does the Planning Commission not hear conditional use permits anymore?

WRISTON: No.

DELEISSEGUES: No.

ALLEN: No.

VARTANIAN: I don't think we ever did. I think the conditional use, there are zones that permit things outright, that permit things on a restricted basis or are allowed only through a conditional use permit. Okay.

DELEISSEGUES: That's in the permitting process.

VARTANIAN: That's in but all of that is in the permitting process, all we're doing here is defining the zone for this piece of property. Inside --

VAUGHT: So --

VARTANIAN: Well, let me finish. Inside of that zone certain things are allowed, certain things are not allowed, and I don't know if there's any conditional use permitting in any of R-12. So I mean what we do here is not determined if it's subject to conditional use or not, the zone itself will determine whether something is permitted, not permitted or conditionally permitted. Do you follow me?

VAUGHT: Well, then, I understand. Thank you for your explanation. I guess my point is still goes back to the fact that once you change the zone to a higher density, no matter who considers the permit or the conditional use I'm locked into probably not having an opportunity to ask that someone address the impacts to my property.

ALLEN: Can staff address that?

RUDZINSKI: Yes, and maybe stepping back a little bit might be helpful, it will be helpful for me I think. But what we're looking at here is a request for a change from urban low density residential to urban medium density residential, that's the comprehensive plan designations. Low density is for single-family houses, medium density provides land for single-family attached houses, garden apartments and multi-family developments, and in the Code it's even more explicit that the R-12 district is intended to provide for exclusively multi-family residential development based upon consistency with the comprehensive plan and compatibility with surrounding land uses. So we -- in essence it would be an allowed use to have the higher density which is what staff is saying is is not compatible with the existing neighborhood and in that essence a developer would be able to develop at the level of intensity that the R-12 allows.

There are some conditional uses, day-cares, I could list off some, and some of them are conditional in both residential -- in both the R1-6 that is in existence and the R-12 that's requested, but the uses, we're not really talking about uses in the staff report so

much as being an issue as much as we're talking about the intensity of residential development that would be allowed on the site if the R-12 was permitted.

VARTANIAN: Let me ask another kind of a question. If we rezone this to R-12 and the developer comes in with something that fits the requirements of R-12, and this may be the kind of review Type 1 or Type 2 review, if it meets the requirements for R-12, absent an appeal by the public is there a hearing involved at all?

WRISTON: Yes.

VARTANIAN: There is a hearing?

WRISTON: There would be a Type 2 hearing in front of the hearings examiner and impacts and the opportunity to comment on impacts to your individual property and traffic and all those would be explored at that time.

VAUGHT: Let me ask a question if I might, thank you for your patience.

WRISTON: You bet.

VAUGHT: If a mobile home park is proposed in the current zoning is a conditional use permit required?

WRISTON: I think mobile home parks are outright permitted.

RUDZINSKI: They're permitted, their use is permitted upon review and approval.

WRISTON: Right.

VARTANIAN: Yeah. You can have a mobile home park in an R1-6.

WRISTON: But again a Type 2 --

VARTANIAN: Right.

WRISTON: -- a Type 2 review which is in front of a hearings examiner.

DELEISSEGUES: But the manufactured home park is different than a mobile home park I mean so and we don't even know if the applicant's proposing that or not now after the testimony so.

ALLEN: And of course we don't know what eventually they're going to apply for once they get their zone change.

VAUGHT: Thank you for your patience.

WRISTON: I want to make sure. Am I getting that correct, James or --

VARTANIAN: Do Type 2's go in front of a hearings examiner?

WRISTON: Yeah, absolutely. And Type 3 too, but I just want to make sure that I'm not -- but in this case that type of application would be a Type 2 I believe.

VARTANIAN: Type 3's do I think, but Type 2's don't.

WRISTON: Type 1's don't. Type 2's and Type 3's do.

HOWSLEY: Type 2 is just a single --

WRISTON: What's that?

HOWSLEY: (Inaudible).

WRISTON: Type 3, excuse me, yeah. But Type 2 does as well or not?

VARTANIAN: I don't think so.

HOWSLEY: Not all the time.

WRISTON: So Type 3 then would be the -- right.

HOWSLEY: It would just be a Type 3.

WRISTON: In any event, an application for a subdivision would go in front of a hearings examiner. I've heard Type 2 does and now Type 3, we've changed it, but it would go in front of a hearings examiner. Even a short plat, right, for the most part goes in front of a hearings examiner, doesn't it, these days or not? I don't know. But anyway.

HOWSLEY: Anything above nine lots.

WRISTON: What's that?

HOWSLEY: Anything above nine lots.

WRISTON: Anything above nine lots, okay.

DELEISSEGUES: It changed recently.

WRISTON: Right. Yeah, it changed recently from four, exactly. I don't know if that -- if we've clarified that or not but --

VAUGHT: I appreciate your responses. Again I support the staff report and recommendation to have the property remain low density as the surrounding properties.

DELEISSEGUES: Okay. Thank you.

WRISTON: Any other testimony? Do you want an opportunity for quick rebuttal?

HOWSLEY: Yes, please. Just quick rebuttal, we're approaching 10:00.

ALLEN: May I have one question. We have a letter from you dated February 28th, 2006 that was received by staff on March 2, 2006, and it states in the second paragraph that "the applicant requests that staff consider a zone change to the R-12 zoning district as a primary option and reserve the option of the R-18 district as a backup. After careful consideration we believe that this option meets the client's objective while having potentially less impact on neighboring properties." Is that still underlying premise of this particular proposal?

HOWSLEY: Yeah. Initially the original application came in as an R-18 zoning request, but in the filing the actual request we had amended it and I don't think it was clearly understood and so we followed up with that letter dated February 28th that what in fact we were seeking was the less dense R-12 designation for the property.

ALLEN: But I'm talking about the reservation of the option for the R-18 district as a backup?

HOWSLEY: Certainly if the Planning Commission believes it's in its wisdom to increase the density on the site, we wouldn't be opposed to it, but we do believe that the R-12 designation meets the locational criteria as well as meets the concerns that the neighbors have discussed this evening.

ALLEN: Thank you.

HOWSLEY: Thank you. Just real briefly to address some of the concerns that were raised. Again, 88th Street is slated on the County's transportation improvement program for improvement in '06/'07. Again, eventual development of the site I think that was suggested in the staff's recommendations under Section 1 that if should the Planning Commission recommend approval of this request that a concomitant agreement be entered into that promotes the extension of 85th Street to the east there going through underneath the BPA easement to connect up to 86th, certainly we would be amenable to that.

Again on the concurrency issues, any traffic related issues would come up at site development and of course the development would have to meet level-of-service standards for the area and would have to pay their proportionate share for the improvements that are being made in the vicinity. And lastly, again just from a

compatibility standpoint with the surrounding properties, that would be arisen at the development review stage and it would be a Type 3 review in front of a hearings examiner for a subdivision given the size of the property and there would be ample opportunity at that time for the public to comment on the specific proposal on the property, but we believe that the R-12 designation as indicated by the Fairfield subdivision up there, even though that's a little bit more intense can fit in very well with the existing surrounding single-family residential properties in this area. And considering a lot of the age of the surrounding properties specifically to the east of the property that would be immediately adjacent and not protected by that 250-foot buffer, those houses are quite old and believe that some new construction in there of some quality wouldn't hurt the property values of the surrounding properties. So with that I'd be willing to entertain any questions.

WRISTON: George.

VARTANIAN: One of the issues I always have on examiners, hearing examiners, and code changes and what have you is that as a result of the zone change to accommodate the higher density, when you go in front of a hearings examiner say it's inconsistent with the area but it complies with the zoning, so having changed the zoning you really pull the teeth out of the argument that says it's not compatible in the area because the zoning allows that particular type of development. And I'm not -- I haven't decided whether I'm in favor of this or not by the way, I'm just running off at the mouth basically, but --

DELEISSEGUES: Well, you better decide.

VARTANIAN: It wouldn't surprise you. I mean, you know, do you see what I'm saying?

HOWSLEY: Certainly. Certainly I understand that and I think that again through some screening, some landscaping standards, obviously we're dealing with a very unique situation here with this easement that is in a sense providing screening for those properties to the west, this is kind of a unique circumstance and it would I think putting this a little bit more density in there, you know, I think an R1-5 and an R1-6 what this is, you know, R-12 would be kind of be the next logical step up in the zoning regiment and it seems to be that it could be compatible with the surrounding uses, especially in light of, you know, the Fairfield Park being next to R1-6.

VARTANIAN: Thank you.

WRISTON: Okay. Further questions? All right. Thanks.

HOWSLEY: Thank you.

WRISTON: Thanks, James. All right. We'll close the public testimony, return to the Planning Commission. Questions? Comments? Discussion?



## **RETURN TO PLANNING COMMISSION**

DELEISSEGUES: Well, I'll, a little bit of discussion. The 6.74 acres seems to me would accommodate a lot of residents at the existing zoning and fit with the surrounding neighborhood. It seems to me we're always looking for large lot single-family residences but we never can find a place to put them. We're always looking for high density and trying to get more people into smaller pieces of land, in-fill, some of these things aren't very popular, you know, with the people that are looking for homes. If you go to a real estate developer or a real estate agent rather and ask for new single-family homes in developed areas where they are close to the good transportation system and shopping and so forth, there aren't any. I mean you have to go out to the rural area, Hockinson or somewhere, and buy five acres to put up a house and this looks like an opportunity to me to provide the market, you know, what the market is asking for, the market demand for large lot single-family residences, and in this case it happens to be compatible with the existing neighborhood, so I guess with that said I support staff's recommendation.

WRISTON: Any other discussion?

ALLEN: The R-12 to me is not compatible with the surrounding uses and it would be inconsistent for us to go ahead and change it from R-6 to R-12 and then of course I see this footnote all over the place to R-18 which seems to be the next step. I mean once we move to R-12, let's go to R-18. But then also I'm looking at the R-22 and although it is R-22, somebody testified that there was a church on that large lot, is that correct, and then the rest of the area appears to be about the same size as the lots in the R1-6 above it, so to put a higher density development right in the middle of an adjacent R1-6 area to me is inconsistent, incompatible, and I think we would be creating a de facto almost something similar to a spot zoning because the R-22 may not probably meet the R-22 down below anyway so I would support staff's recommendation of denial.

WRISTON: George, further discussion?

VARTANIAN: Yeah. No, I think I'm in agreement with Commissioner Allen and Commissioner Deleissegues. I'm a big fan of densification, but it has to make some sense and one of the criteria for the GMA is in fact to densify where possible but also to maintain some current local character in the nature of the area and I just don't see how that would work in this condition; however, just as an admonition, if those of -- those who are concerned with mobile homes and that kind of stuff, that doesn't solve your problem as far as this particular issue is concerned.

WRISTON: I think this one's a hard one for me as well. I think I'm in agreement with you three. Also I believe I see the applicant's dilemma here with BPA bifurcating, I mean going right through the property, that's going to be a -- it's going to be a difficult -- it's going to be a difficult site to develop economically with an R1-6 zoning.

And I don't know if that's the issue or not, but I mean there is -- it is -- but I'm hoping that through vehicles like PUD's and density transfers and being able to take use of some of the open space under the power lines and all that, something might be able to be done there, I don't know, you might address that.

HOWSLEY: I just want to address something real quick with --

WRISTON: Yeah.

DELEISSEGUES: I don't think you can.

HOWSLEY: -- you can't density transfer off a BPA easement anymore.

WRISTON: Okay. That's what I, I wondered whether you could. You can't do that?

HOWSLEY: Yeah. And so again, because of the easement on the site I think you're hitting on a very good point, that it's struggling to figure a way to make this site work economically.

VARTANIAN: The 6.74 acres is inclusive of the BPA --

HOWSLEY: Correct.

VARTANIAN: -- right-of-way, it's not the red's on the other side, on either side?

HOWSLEY: Correct.

WRISTON: So you can density transfer on that. How long has that been? Is that fairly --

HOWSLEY: That's not always been but it's a pretty recent thing, I think when they adopted Title 40.

WRISTON: Okay. I was going to say it must have been very recent because our --

HOWSLEY: And it's a shame but it's the Code.

VARTANIAN: That's a tough situation.

WRISTON: Okay. So really the only other vehicle for higher density would be besides your --

HOWSLEY: Pray for critical areas.

WRISTON: Yeah. Or a PUD.

HOWSLEY: Correct.

WRISTON: I mean you could use -- I guess you could use -- do a PUD and use -- can you do -- yeah, a PUD is not fun, but could you use the open space under the BPA as an excuse for a PUD?

HOWSLEY: No. No.

DELEISSEGUES: No. No.

WRISTON: No, you can't do that either.

HOWSLEY: I looked at that and you can't do that either.

WRISTON: Can't do that either. Well, that can't be your open space. Okay. Well, that helps.

ALLEN: But the bifurcated, what is it northwest corner, could become open space?

WRISTON: Right.

RUDZINSKI: Could staff ask for a clarification. There are three parcels involved and it was our understanding that the three parcels was not inclusive of the BPA right-of-way.

HOWSLEY: It's my understanding that it is, but maybe I stand corrected.

DELEISSEGUES: We were told that you could park, you know, under an RV park and there are some things you can do under an easement.

RUDZINSKI: I guess there's some question as to the acreage then of this area. Again, it is in three parcels, we're not talking about one parcel with a BPA power line going through it, so I have some question as to whether or not the zoning actually is in or the parcel size acreage is inclusive or exclusive of that power point.

ALLEN: Now you took the acreage of the Tax Assessor parcels? Is that how you did it?

RUDZINSKI: That's correct.

ALLEN: So there would not be a tax assessment on the BPA; right?

DELEISSEGUES: There would not be.

ALLEN: Correct.

RUDZINSKI: Well, I'd have to do some quick math I think.

ALLEN: If you're taking it off the Assessor parcel tax ID determination for taxes, then that would be net acreage, not gross acreage, because they wouldn't put an Assessor parcel, they would not tax the Bonneville Power easement there; right?

RUDZINSKI: Again I'm a little tired and I'm not sure what I'm looking at here as far as acreage goes. Let's see. It looks to me that these are separate tax lots and that they were created exclusive of the BPA line.

ALLEN: And if the acreage was taken off the tax assessment rolls, then that would be net acreage, not the gross acreage, but then of course we don't really know if this is a one legal lot or a two legal lot.

RUDZINSKI: No, it's three legal parcels.

ALLEN: It's three legal parcels?

RUDZINSKI: Yes. Yes. And that's why what Colete just gave me is up on the screen.

ALLEN: Oh, okay.

VARTANIAN: Good. What am I looking at?

ALLEN: It has the acreage there.

RUDZINSKI: I believe you are looking at a total of 6.74 acres in three different parcels that does not include the BPA power line.

HOWSLEY: Okay. I stand corrected.

ALLEN: That's the net.

RUDZINSKI: And so we are talking about --

VARTANIAN: Usable land.

RUDZINSKI: -- approximately that amount of acreage can yield 49 units under the R1-6. Under R-12 we've estimated that it could be upwards of 80 units, so that's the difference.

VARTANIAN: But it's all developable? But the 6.74 acres is developable usable land?

RUDZINSKI: Right. And developing it the site as a site of course there are probably those issues that you're talking about, but of just pure developable land, you know, we've based our density calcs off of the Tax Assessor information.

ALLEN: So that bifurcated area north of -- northwest of that bifurcated area, that's a separate legal lot; right?

RUDZINSKI: Yes, ma'am.

WRISTON: My concern, and I wish, you know, I wish Lonnie would be here to be -- because he does so much of this to be able to see that, but my concern and probably, James, you may be able to address this, is when you -- I would just be concerned that this is going to get passed over in R1-6 when you look at those two triangular pieces and the shapes in there with R1-6 and the problems it gives you with the lot depths and widths and everything, I mean you're just going to have a pretty large chunk of that that's going to be undevelopable I think. I don't -- there's no way you're going to get -- I mean I think you're just taking -- I'm not sure where you're coming up with the 40, 40 units, but I don't know. James, you guys may have looked at this and there's probably reasons, I'd just note that the higher density gives you more flexibility in those standards which I'm not a big fan of but our Code does not give us much flexibility with those --

VARTANIAN: You could dedicate it as a park, the triangular piece (inaudible).

WRISTON: -- with those lot widths and depths and --

DELEISSEGUES: Well, I think it's more of a challenge with a smaller piece of property than it would be, though, with that acreage. I think you've got some leeway, you know, of --

WRISTON: Oh, you'll get something out of it, I mean.

DELEISSEGUES: Oh, well, you'll get quite a bit out of it I think. I don't think you'd lose too much. And like you say, you could do a Planned Unit Development too.

WRISTON: Yeah. But you got to -- then you got to set something aside and --

DELEISSEGUES: Well, you do --

WRISTON: -- amenities and --

DELEISSEGUES: -- but that's these corners you're talking about.

WRISTON: Yeah, it could be. It could be. Okay.

HOWSLEY: Like I said, it's a very peculiar site and --

WRISTON: It is.

HOWSLEY: -- because the Title 40 doesn't allow it to do density transfer off easements anymore it -- I mean it would be a hard one for I think a developer to look at and I think this probably would just keep getting passed over and over and over unless there's some other alternative and I think that we're proposing something that seems compatible, and again with that easement running through the middle of that property, in a sense it's providing an additional buffer to those compatible uses to the west and so what we're really talking about is those houses immediately to the east that would be impacted and as far as I can tell there wasn't really any neighborhood testimony other than one seemingly to support that, the first gentleman there on 85th Street there on the south corner there and, again, it would dive into that property that is designated R-22 to the south.

WRISTON: Yeah, there is some there. Okay. Thank you.

RUDZINSKI: I might just clarify as well the property to the south. Based on information that the applicant gave us in the pre-application conference the church is actually on -- the developed portion is actually on the roadway and the parcel directly to the south of the subject site is vacant and I believe associated with the church and I believe the applicant said there are ball fields on that, you know, some type of active or passive recreation associated with the church, but the parcel directly to the south is not developed.

HOWSLEY: Yeah, it's currently there is some ball fields there I think for the existing school that's there, they're building another school adjacent to the east and I don't know what the church's intention is with that R-22 land, but it would seem at some point that it would be redeveloped.

VARTANIAN: Well, is there a nearby neighborhood park anywhere around here?

HOWSLEY: There's a new one going in just across 88th Street to the northwest.

VARTANIAN: Dedicate it as a park and do a trade with the County for park land someplace else.

WRISTON: All right. Any other -- that helps, that discussion helped. Is there any other discussion or questions? Motion?

DELEISSEGUES: Motion, George?

VARTANIAN: Yeah, I guess. I **MOVE** we concur with staff's recommendation for denial for this property and move it along to the Commissioners for their consideration.

DELEISSEGUES: I'll **second** it.

WRISTON: Okay. Roll call.

**ROLL CALL VOTE**

VARTANIAN: AYE  
ALLEN: AYE  
DELEISSEGUES: AYE

WRISTON: I'm going to say **NAY** for the I'll play the Devil's advocate a little bit and just I would be less convinced if there wasn't -- if there wasn't the urban medium to the south, but there is urban medium to the south and I think I, I think I see it perhaps what the applicant's concerns are with and as they go to the Commissioners if indeed that those are some of the concerns, you might want to play with showing that, but I mean I'm just -- I've been kind of penciling and drawing and once you put in the cross-circulation and all you're really -- I mean you're just -- you've eaten that up.

And, you know, we also have concerns with density and passing properties over and this is going to be too big to qualify for in-fill and apparently we've taken away any possibility of density transfer and PUD's not going to I won't say won't work, but presumably by the time you give up what you give up there, still with cross-circulation you're going to have some problems there. So I'm not sure that it's completely incompatible, although I do have some concerns that it is surrounded by three sides with urban low so, but I'll throw out -- just Devil's advocate I'll throw out the nay for discussion purposes. All right.

DELEISSEGUES: That's good.

ALLEN: Can I say something that when George said to deny this property he meant to say to deny this case; right? I think he said to deny this property, we're not denying the property.

VARTANIAN: Concur with the denial as recommended.

WRISTON: Right. Right. All right. That brings us to the end of the hearing, again the last two items, NE 71st Street and Springbrook are going to be **moved** to the **Vancouver City Hall, June 29th, 6:30 p.m.** Appreciate everyone's patience tonight, appreciate everyone's patience with our moving around of the schedule on all of these numerous items. Is there any old business? New business?

**OLD BUSINESS**

None.

**NEW BUSINESS**

DELEISSEGUES: I just have one issue. You know, on some of the maps that you've provided us and we asked that the streets be identified they're identified but it's such

tiny font that it's an eye test and I just wonder if whoever produces the maps could use a little bigger lettering so we can --

ALLEN: Or put additional labels up above it.

DELEISSEGUES: -- so we could at least identify it because I need a magnifying glass to see that.

NITEN: We have tried to do that and we've enlarged the font as much as we can. On the printed material we can't get it for whatever reason, but on the saved material we can, that's why we've got the yellow markers on that.

ALLEN: I like that copy.

NITEN: We can't print that unfortunately.

ALLEN: What I used to do, I used to cheat, I used to make my own labels and put them on the map and then reproduce.

DELEISSEGUES: Whatever you can do would be helpful.

NITEN: We'll give it a shot.

WRISTON: Excuse me, on new business I do have a request, and I think we all agree here that to the extent possible, and I know that Rich has his good days and bad days still, but it would help to have counsel here. Not necessarily every hearing but certainly hearings like this it would help to have County, County counsel, yeah, I mean some County counsel. So to the extent we could do that it would be helpful on matters that are -- we know are going to be somewhat contentious or that we know are going to be represented on the other end. So seeing no other new business I'm going to go ahead or other comments, go ahead and adjourn. Thank you.

#### **COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION**

None.



## **ADJOURNMENT**

The hearing adjourned at 10:30 p.m.

All proceedings of tonite's hearing can be viewed on the Clark County Web Page at:

**[http:// www.clark.wa.gov/longrangeplan/commission/06-meetings.html](http://www.clark.wa.gov/longrangeplan/commission/06-meetings.html)**

Proceedings can be also be viewed on CVTV on the following web page link:

**<http://www.cityofvancouver.us/cvtv/>**

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**Chair**

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**Date**

*Minutes Transcribed by:*

*Cindy Holley, Court Reporter*

*Sonja Wiser, Administrative Assistant*

*Min 2006 – 06-15.doc*